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Worship of the Holy Ghost

AN
HISTORICALL VINDICATION
OF THE
Church of England

In point of

S C H I S M,

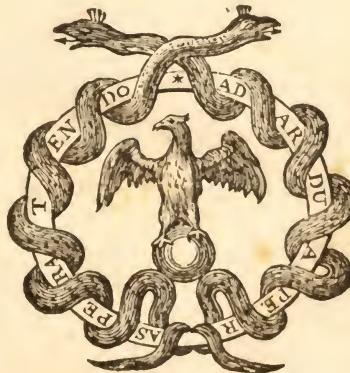
As it stands separated from the Roman,
and was reformed I. Elizabeth.

Deut. xxxij. 7.

Remember the dyes of old, consider the years of many generations.
Ask thy Father, and he will shew thee; thy elders, and they will tell thee.

Jeremiah vij. 16.

Ask for the old paths, where is the good way, and walk therein;
and ye shall find rest for your souls.



L O N D O N ,

Printed by R. DANIEL, for Daniel Pakeman at the
Rain-bovv near the Inner Temple gate, 1657.

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M A J H T E



To the
R E A D E R.

DKnow how easily men are drawn to believe, their own observations and expressions may prove as welcome to others, as they are pleasing to themselves. And though few books live longer than the Authors who send them to the press, and fewer avoid an opinion they might have been as well spared as come abroad; yet neither the hazard their makers run, nor the little gain they reap, can hinder those have a Genius that way, from suffering others to be as well Masters and censurers of their thoughts as themselves.

This being then the venture every
A 3 writer

To the Reader.

writer exposes himself unto, the Reader may not a little marvell how I have been brought to hazard my self on the same Seas I have seen so many Shipwrackt in, I shall desire him to adde this to what is already in the first chapter, as my Apology.

a Veneranda
Antiquitas,
cujus pra-
scrip^o cuncta
bene geri in
Eccl^{ia} Ca-
tholica con-
sueverunt.

Baron. Annal.
tom. 8. Anno
692, n. 5.

b Non p^o ar-
titrio diffe-
rentium, ver-
bisque pu-
gacionibus
minim, sacra

dogmata
Romana Eccle-
sia defini- et;
sed quæ ab A-

postolis tradi-
ta, à majori-
bus deductæ, à
paribus ser-
vata accep-
set, hac ipsa,

upote sacro-
sancta, uni-
verse Ecclesiæ
servanda, atq;
invisibilis

lige custo-
dindæ, adem
Ecclesia Ro-
mana pre-
scriberet; va-
ron. tom. 7.

Anno 535.
n. 90.

Reading some times in *Baronius*,^a that all things were well done in the Catholick Church had venerable antiquity for their warrant, and that the Roman Church did not prescribe any thing as ^b an holy tenet, but such onely as delivered by the Apostles, preserved by the Fathers, were by our ancestors transmit-
ted from them to us ; I cannot deny to have thought (for certainly Truth is more ancient then Error) this being made good, and that she did commend them to us, in no other degree of necessity then those former ages had done, but she had much more reason on her side then I had formerly conceived her to have : but

To the Reader.

but in examining the assertions, it seem-
ed to me not onely otherwise , but that
learned Cardinall not to have ever been
in this consonant to himself , confessing
the Catholick Church not alwayes , &
in all things , to follow the interpreta-
tions of the most holy Fathers.

On the other side , it seemed to me
somewhat hard to affirm the Papacy
had incroached on the *English*, and nei-
ther instance when, where, nor how.

Hereupon , as I perused our ancient
Laws, and Histories, I began to observe
all changes in matters Ecclesiastical re-
ported by them ; in which I had some-
times speech with that learned Gentle-
man I mention in the first chapter,
whom I ever found a person of great
candor , integrity , and a true English-
man. I noted likewise how the Refor-
mation of Religion was begun with us,
how cautiously our ancestors proceed-
ed, not to invade the Rights of any, but

c Sanctissimos
patres in
interpretatio-
ne Scriptura-
rum non
semper & in
omnibus
Catholica
Ecclasia sequi-
tur , tom. I.
Anno 34.
n. 213.

To the Reader.

to conserve their own. Many years after, I know not by what fate, there was put into my hands (as a piece not capable of answer, in relation as well to the fact as reason it carried) without at all my seeking after it, or hearing of it, a treatise of the Schisme of *England*, carrying the name of one *Philip Scot*, but, as told me, composed by a person of greater eminency, dedicated to both the Universities, and printed *permisſu Superiorum*; truly, in my judgment, neither illiterately nor immodestly writ: but in reading of it, I found sundry particulars, some perhaps onely intimated, others plainly set down, I could no way assent unto; as that *Clement* the vij. did exercise no other auctority in the Church then *Gregory* the great had done, That the Religion brought hither by *Augustine* varyed not from that was before the Reformation, That the *English* made the separation from the Church

To the Reader.

Church of *Rome*, That in doing so we departed from the Church Catholick.

I was not ignorant it might be found in the writings of some Protestants, as if we departed from *Rome*; which I conceive is to be understood in respect of the Tenets we separate from holding Articles of faith, not of the manner how it was made.

Having gone through the book, I began to look over my former notes, and putting them for my own satisfaction in order, found them swell farther then I expected; *Vrceum institui, exit amphora*: and when they were placed together, I shewed them to some very good friends, to whose earnest perswasions (being such as might dispose of me and mine;) I have in the end been forced to yield, making thee partaker of that I never
in-

To the Reader.

intended should have past farther
then their eyes.

Yet in obeying them I shall desire
to be rightly understood ; That as I
do not in this take upon me the dis-
puting the truth of any controver-
siall tenet , in difference between us
and the Church of *Rome*, so I meddle
not with any thing after *Pius quintus*
came to the Papacy; who first by pri-
vate practises, and then open excom-
munication of her Majesty , declared
himself an enemy , & in open hosti-
lity with this state, which therefore
might have greater reason to pre-
vent his endeavours, by some more
sharp laws against such as were here
of his inclination, then had been seen
formerly : with which I meddle not.

Thus the Reader hath the truth ,
both how I came to compose , and
how to print this. If he find any thing
in it like him , he must thank the im-

por-

To the Reader.

portunity of others; if to misdoubt,
I give him in the margin what hath
lead me to that I affirm; if to dislike,
his losse will not be great either in
time or cost: and perhaps it may incite
him to do better in the same ar-
gument, and shew me my errours,
which (proceeding from a mind
hath not other intent then the dis-
covery of truth) no man shall be
gladder to see, and readier to ac-
knowledge them

From my House in
East Peckham the
22. May M DC LVII.

Roger Twysden.



A T A B L E
Of the
C H A P T E R S.

CHAP. I.	A	N Historicall Vindication of the Church of England in point of Schism: And how it came to be entred upon.	fol. 1
Chap. II.	Of the Britans.		fol. 7
Chap. III.	Of the increase of the Papall power in England under the Saxons and Normans, and what op- positions it met with.		fol. 9
Chap. IV.	Of the Payments to the Papacy from En- gland.		fol. 74
Chap. V.	How far the Regall power did extend it self in matters Ecclesiasticall.		fol. 93
Chap. VI.	How the Kings of England proceeded in their separation from Rome.		fol. 118
Chap. VII.	How the reformation was made under Queen Elizabeth.		fol. 126
Chap. VIII.	How Queen Elizabeth settled in this King- dom the proceeding against Hereticks.		fol. 135
Chap. IX.	Of the further proceeding of Queen Elizabeth in the Reformation.		fol. 174

An



A N
 Historical Vindication
 O F T H E
 Church of England in point of
 S C H I S M.

CHAP. I.

1. **B**T is now more than twenty yeares since defending the Church of *England* as it was settled i *Eliz.* for the most perfect and conformable to Antiquity of any in *Europe*, a Gentleman, whose conversation for his Learning, I very much affected, told me, He was never satisfied of our agreeing with the Primitive Church in two particulars; the one in denying all manner of Superiority to the Bishop of *Rome*; to live in whose Communion the East and Western Christian did ever highly esteem. The other, in condemning Monastique living, so far, as not onely to reform them, if any thing were amiss, but take down the very houses themselves. To the first of these I said, We did not deny such a Primacy in the Pope as the Antients did acknowledge, but that he by that might exercise those acts he of some years before *Hen. the 8th* had done, and had got by encroaching on the *English* Church and State meerly by their tolerance, which when the King-

dom took to redress and restrain him in, he would needs interpret a departing from the Church; yet if any made the departure, it must be the Pope, the Kingdom standing onely on those Rights it had ever used for its own preservation, which putting in practice, it was interdicted the King, excommunicated by him, &c. To which he replied in effect that of *Henry* the eighth in his book against *Luther*, That it was very incredible the Pope could doe those acts he had sometimes exercised here by encroachment; for how could he gain that power and none take notice of it? That this argument could have no force if not made good by History, and those of our own Nation, how he had increased his Authority here. Which, truly, I did not well see how to deny, farther than that we might by one particular conclude of another; As if the Church or State had a right of denying any Clark going without License beyond Seas, it must follow, it might bar them from going, or Appealing to *Rome*: If none might be acknowledged for Pope without the Kings approbation, it could not be denied but the necessity of being in union with the true Pope (at least in time of Schism) did wholly depend on the King. And so of some other.

2. As for the other point of Monasteries, I told him, I would not take upon me to defend all that had been done in demolishing of them; I knew they had nourished men of Piety and good Learning, to whom the present Age was not a little beholding; for, what doe we know of any thing past but by their labours? That divers well affected to the Reformation, and yet persons of integrity, are of opinion their standing might have continued to the advancement of Literature, the increase of Piety, and Relief of the Poor. That the King when he took them down was the greatest looser by it himself. Whose opinions I would not contradict, yet it could not be denied, they were so far streyed from their first institution,

stitution, as they retaine little other than the name of what they first were.

3. Upon this I began to cast with my self how I could Historically make good that I had thus asserted, which in general I held most true, yet had not at hand punctually every circumstance, Law, and History that did conduce unto it; in reading therefore I began to note apart what might serve for proof any way concerning it: But that Gentleman with whom I had this speech being not long after taken away, I made no great progresse in it, till some years after, I was constreined to abide in *London* (sequestred, not onely from publique, but even the private businesse of my Estate) I had often no other way of spending my time but the company a book did afford; insomuch as I again began to turn over our ancient Laws and Histories, both printed and written, whereof I had the perusal of divers of good worth, whence I collected many notes, and began farther to observe the question between us and the Church of *Rome* in that point, not to be whether our Ancestors did acknowledge the Pope successor of St. Peter, but what that acknowledgment did extend to: Not whether he were Vicar of Christ, had a power from him to teach the Word of God, administer the Sacraments, direct people in the spiritual wayes of heaven (for so had every Bishop, amongst which he was ever held by them the first, *Pater maximus in ecclesia*, as one to whom Emperours and Christians had not only allowed a primacy, but had left behind them why they did it, *Sedis Apostolica primatum saneti Petri meritum, qui princeps est Episcopalis corona Romanæ dignitas civitatis sacra etia Synodi firmarit auctoritas, saies^a Valentinian* 445. On ^a*Valentinian* ^{Novel 24. in fin. cod. Theod.} which grounds, if he will acceptit, I know no reason to deny his being prime) but whether they conceived his commission from Christ did extend so far as to give him an absolute authority over the Church and Clergy in *England*, to redres, reform, correct, amend all things in it,

it, not by advice , but as having power over it, with or against their own liking , and farther to remove, translate, silence, suspend all Bishops, and others of the Spirituali-ty. In short, to exercise all Ecclesiastique authority within this Church above any whatsoever, so as all in Holy Orders (one of the three Estates of the Kingdom) solely and supreamly depended on him, and hee on none but *Christ*; and whether our Forefathers did ever admit him with this liberty of disposing in the *English* Church.

4. To wade through which question there was an eye to be cast on all the times since *Christ* was heard of in *England*, and therfore to be considered how Christianity stood upon the conversion of the *Britans*, the *Saxons*, and since the irruption of the *Normans*, under the first of these we have but little, under the second some-what, yet not much, under the third the Papacy swell'd to that height, some parts have been constrained to cast it off , and *England* without his assent in that point so to reform it self, as to declare^b *no manner of speaking, doing, communication, or holding against the Bishop of Rome, or his pretended power or authority, made or given by humane Laws, shall be deemed to be Heresy*. By which it seemis those Episcopal Functions he did exercise common with other Bishops (as Baptizing, conferring Holy Orders, &c.) it did not deny to be good and valid of his admini-stration.

5. But what those particulars were humane Laws had conferred upon the Papacy , and by what constitutions or Canons those preheminences were given him, was the thing in question, and not so easie to be found , because indeed gained by little and little, I cannot but hold Truth more ancient than Error, every thing to be firmest upon its own bottom, and all novelties in the Church to be best confuted by shewing how far they cause it to deviate from the first original, I no way doubt but the Religion exercised by the *Britans* before *Augustine* came, to have been

^b Stat. 25.
Hen. 8. cap.
14.

been very pure and holy: nor that planted after from S. *Gregory*, though perhaps with more ceremonies and commands, *juris positivi* which this Church embraced rejected or varied from, as occasion served to be other, but in the foundation most sound, most orthodox; that holy man never intending such a superiority over this Church as after was claimed. The Bishops of *England* in their condemnation of *Wicliff's* opinions, do not at all touch upon those concerned the Popes supremacy, and the ^c*Councell of Constance* that did censure his affirming. *Non est de necessitate salutis credere Romanam Ecclesiam esse supremam inter alias Ecclesias*, doth it with great limitations and as but an error: *Error est si per Romanam Ecclesiam intelligat universalem Ecclesiam, aut concilium generale, aut pro quanto negaret primatum summi Pontificis super alias Ecclesias particulares*: I conceive therefore the Basis of the Popes or Church of *Romes* authority in *England*, to be no otherthen what being gained by custome, was admitted with such regulations as the kingdome thought might stand with it's own conveniency, and therefore subject to those stipulations, contracts with the Papacy and pragmatiques it at any time hath made or thought good to set up, in opposition of extravagancies arising thence, in the reformation therefore of the Church of *England* two things seem to be especially searcht into, and a third arising from them fit to be examined.

1. Whether the Kingdome of *England* did ever conceive any necessity *jure divino* of being under the Pope united to the Church and sea of *Rome*, which drawes on the consideration how his authority hath been exercised in *England* under the *Britons*, *Saxons* and *Normans*, what treasure was caryed annually hence to *Rome*, how it had been gained, and how stopt.

2. Whether the Prince with th'advise of his Clergy was not ever understood to be endued with authority sufficient, to cause the Church within his Dominions be by

^c*Apud Knighton. col. 2648.*
^c*& in fasciculo zizaniorum*
Mss fol. 64. a
col. 1. in biblio theca Archiepiscopo Armachani.
d Concil. const. ses. 8.
Art. 41.

^c*Vide concordata inter Hen. 2. & Alexan-*
drum 3. 1172.
Edwardum 3. & Gregor. 11. 1373.
Henticum 5. & Martinum 5. 1418.

them reformed, without using any act of power not legally invested in him, which leads me to consider what the Royal authority *in sacris* is. 1. In making lawes that God may be truly honoured. 2 things decently performed in the Church. 3 Profainesse punished, questions of doubt by their Cleargy to be silenced.

3. The third how our Kings did proceed, especially Queen *Elizabeth*, (under whose reformation we then lived) in this act of separation from the sea of *Rome*, which carries me to shew how the Church of *England* was reformed by *Henry the 8.* *Edward the 6.* and Queen *Elizabeth*. Wherein I look upon the proceedings abroad and at home against Hereticks, the obligation to generall Counsells, and some other particulars incident to those times.

I do not in this at all take upon me the disputation, much less the Theologicall determination of any controverted *Tenes* (but leave that as the proper subject to Divines) this being onely an historicall narration how some things came amongst us, how opposed, how removed by our ancestors, who well understanding this Church not obliged by any forraign constitutions, but as allowed by it self, & either finding the inconvenience in having them urged from abroad farther then their first reception heare did warrant. Or that some of the Cleargy inforced opinions as articles offaith, were no way to be admitted into that rank, did by the same authority they were first brought in (leaving the body or essence (as I may say) of Christian religion untouched,) make such a declaration in those particulars, as conserved the Royall dignity in it's ancient splendour, without at all invading the true legall rights of the state Ecclesiasticall, yet migth keep the kingdome in peace, the people without destruction, and the Church in Vnity.

C H A P. III.

Of the Britans.

1.  Shall not hear inquire who first planted Christian Religion amongst the Britans, whether ^a Joseph of Arimathea, ^b Simon Zelotes, ^c S. Peter or Elutherius, neither of which wants an author, yet I must confess it hath ever seemed to me by their alleadging the ^d Asian formes in celebrating ^e Metaphras. ^f Easter, their differing from the rites of ^g Rome in severall stes Junii de particulars, of which those of most note were, that of ^h Easter, and baptizing after another manner, then the ⁱ Ro. mans used, their often journeying to Palestina, that they received the first principles of Religion from Asia. And if ^j Beda lib. 3. afterward Calestinus the Pope did send (according to ^k cap. 25. conser. Euseb. hist. lib. f Prosper) Germanus vice suu to reclaim them from Pelagianisme, certainly th' inhabitants did not look on it, as an action of one had authority, though he might have a fatherly care of them as of the same profession with him, as ^l Ie mulis no- stra consuetudini, — contraria geritis apud Bed. lib. 2. a Synod in France likewise had, to whom in their distress they address themselves, to which Beda attributes ^m cap. 2. August, Britonibus: the help they received by Germanius and Lupus. ⁿ prosper. in chroniclo Ann.

2. After this as the Britans are not read to have yeild-
ed any subjection to the Papacy, so neither is ^o Beda lib. 1. Rome noted to have taken notice of them, * for ^p Vide cap. 2. Gregory the great about 590. being told certain children were ^q de Britannia n. 2. insula did not know whether the Countrey were Christian or Pagan, and when Augustine came hither ^r b and de-
manded their obedience to the Church of Rome; the Ab. Beda lib. 2, bot of Bancor returned him answer: That they were obedi-
ent to the Church of God, to the Pope of Rome, and to every godly Christian, to love every one in his degree in charity, to help them in word and deed to be the children of God, and o-
ther

ther obedience then this they did not know due to him, whom he named to be Pope nor to be father offathers.

3. The Abbots name that gave this reply to *Augustine* seems to have been *Dinooth* and is in effect no other

^{i Galfrid Mo-} then what ¹ *Geffry Monmouth* hath remembred of him,
^{numeten ubi agit de Augu-} that being miro modo liberalibus artibus eruditus Augusti-
^{stino prope fi-} no petenti ab episcopis Britonum subjectionem diversis mon-
^{nem.}

stravit argumentationibus ipsos ei nullam debere subjectio-

^{k Lib. 2. cap. 2 nem,} to which I may adde by the testimony of ^k *Beda* their

not only denying his propositions, *sed neque illum pro Archiepiscopo habiturum respondebant*. And it appears

^{l Giral. Itin. Camb. lib. 2. cap. 1.} *l by Gyraldus Cambrensis*, this distance between the two Churches continued long even till *Henry* the first, induced their submission by force, before which *Episcopi*

Walliæ à Menevensi Antistite sunt consecrati, & ipse si- militer ab aliis tanquam suffraganeis est consecratus, nulla penitus alii Ecclesiæ facta professione vel subjectione: the generality of which words must be construed to have re-

ference as well to Rome as Canterbury; for, a little after, he shewes that though *Augustine* called them to councell, as a legat of the Apostolique sea, yet returned, they did proclaim they would not acknowledge him an Archbi-
shop, but did contenir both himself and what he had esta-
blished.

^m *Baronius Parœnisis ad Rempub. Ve- netam p. 52. atque his tan- dem finis esto, sed doleo vehe-*

mentè quod absque valete.

Iohannes enim Aposto- lus id videt et cum eo omnis simul Ecclesia quod indigne salutatione ju- stè judicei qui non communicantes Romana Ecclesiæ omnis penitus sunt salutis ex- peries (2. Io- han.)

4. Neither were the *Scots* in this difference any whit behind the *Britans*; as we may perceive by the letter of *Lau- rentius Iustus*, and *Mellitus*, to the Bishops and Abbots through *Scotland*; in which they remember the strange perverseness of one *Dagamus a Scottish Bishop*, who upon occasion coming to them did not only abstain eating with them, but would not take his meat in the same house they abode, yet they salute them with the honourable titles of *their dearest lords and brethren*. A certain signe of a wide distance between the opinions of *Rome* then, and now, when men are taught not so much as ^m bid them farewell do not submitunto it, sure our first Bishops know

know no such rule, who placed in their Calendar for Saints and holy men, as well *Hilda*, *Aydon*, and *Colman*, the opposers of *Rome*, as *Wilfred*, *Agilbertus*, and others who stood for it.

C H A P. III.

Of the increase of the Papall power in England under the Saxons and Normans, and what oppositions it met with.

1. After the planting of Christian religion amongst the *Saxons*, th' Archbishop of *Canterbury* became a person so eminent, all *England* was reputed his^a Diocese, in the colledge of Bishops b *London* his Dean, whose office it was to c summon Councells, *Winchester* his Chancellour, d *Salisbury* or (as some) *Winchester* his Preceptor, or that begun the service by singing, e *Worcester* or rather *Rochester* his Chaplain, and the other the carrier of his Crosse: f expected no less obedience from *York*, then himself yielded to *Rome* g, voluntate & beneficio, it being th' opinion of the Church of *England*, it was but equall^h ut ab eo loco mutuentur vivendi disciplinam, à cuius somite rapuerunt credendi flam-mam. The dependence therefore of the Clergy in *England* being thus wholly upon th' Archbishop, it will not be amisse to take a little view both of what esteem he was in the Church, and how it came to be taken off, and by degrees transferr'd to a forreign power.

2. Upon the conversion of the *Saxons* here by the preaching of *Augustine* and his companions, and a quiet peace settled under *Theodore*, i to whom all the English g Rodulph. inter script. x. *Angliae*, &c. col. 1736, 17. h *Malms. fol. 121, a, 8. i Beda lib. 4. cap. 2.*

^a *Eadmer. p. 12, 29. p.*

^b *137, 1. Ger-*
Doro-

^c *vas. Doro-*
bern. col.

^d *1661, 54. Lyndwood*
de penis. cap.

^e *Tanquam.*

^f *Gervas. Do-*
robern. col.

^g *1566, 10. Sic Lynd.*

^h *ubi supra, at*
Get. Doro-

ⁱ *voluntate bern. col.*

^j *1382, 61. Sic Lynd-*

^k *wood, at Ger.*

^l *Dorobern,*

^m *col. 1382, 61.*

ⁿ *col. 1429, 23.*

^o *Rof. at 1565,*

^p *I. Wigor.*

^q *f Malms. fol.*

^r *121. a & Di-*

^s *ceto col.*

^k Lib. MS. in submitted, ^k Parochiall Churches by his encouragement
aula Trinitatis Canabrig. began to be erected, and the Bishop of Rome greatly reve-

renced in this nation, as being the successor of Saint Peter the first Bishop of the world, Patriarch of the West;

¹ Hall 20. that resided in a town¹ held to nourish the best Clerks in Hen. 8. f. 179. Christendome, and the seat of the Empire; insomuch

Christendome; and the rest of the Empire: insomuch, as the devout Britan (who seemes (as I said) to have recei-

m Divisus ab orbe nostro Britannus, si place of greatest sanctity, so amongst the Saxons Romam in religione adire magna virtutis estimabatur. But as this was of their proceritatem.

*processerit,
quarit locum
sama sibi tanū
scriptura-
rum relatione
cognitum. E-* rish; soth' instructions thence were not as coming from
Paulo. one had dominion over their faith, the ones do not at all

pist. Paule & Eustochii de commigrat. Bethlehem, inter opera Hieronymi One had dominion over their faith, the one side not at all giving, nor the other assuming other then that respect is fit to be rendred from a puisne or lesse skilfull to more ancient and learned Teachers. As of late times when

*Hieronymi
Script. circa
Anno 1554.* certain divines at *Frankford* 1554. differed about the Common prayer used in England. *Knox* and *Whitting-*

Ann. 3rd. Common-prayer used in England, Knox and Whittington lib. 4. c. 23. Reda ham appealed to Calvin for his opinion; and receiving

Troubles *and* **Frank** *his 200. Epistle, it so wrought in the hearts of many, th.*

they were not so stout to maintain all the parts of the Book as they were then against it. And Doctor Cox and some

Edit. 1575. other, who stood for the use of the said Book, wrote un-

^{11.} to him, *p* excusing themselves that they put order in their Church without his counseil asked. Which honour they

Church without his counsell asked. Which honour they shew'd him, not as esteeming him q to have any auctority

*new drink, nor as concerning him. I do not any longer
of Office over them; but in respect of his learning and me*

3. As these therefore carried much honour and yield

3. As they therefore carried much honour, and yielded great obedience to *Calvin*, and the Church of *Gene-*

¹ibid. p. xlix. *va* by them, ²then held the purest reformed Church in Christendom: so it cannot be denied but our An-

Christendom: so it cannot be denied but our Ancestors the *Saxons* attributed no less to the Pope and

ceases the States attributed no title to the Pope and Church of Rome, who yet never invaded the rights of

this,

this, as contrary to the^f council of *Ephesus*, and the Ca-^f Concil. ge-
nons of the Church of *England*; but left the Govern-^{general. edit.}
ment of it to the *English* Prelats, yet giving his best ad-<sup>Romæ 1608.
10. 1. pag. 498.</sup>
vice and assistance for increasing devotion, and main-^{A.}
tenance of the Laws Ecclesiasticall amongst them, in<sup>Beda 1.4.
cap. 5.</sup>

which each side placed the superiority. From whence it
proceeded that however the Pope was sought to from
hence, he rarely sent hither any Legat. ^a In the Coun-^a Concil.
cell of *Calcuith* held about 180. years after *Augustine*,<sup>Spelm. Ans.
787. p. 293.</sup>

it is observed, *a tempore Sancti Augustini Pontificis sa-*
cerdos Romanus nullus in Britanniam missus est, nisi
nos. And ^x *Eadmerus*, that it was *inauditum in Britan-*^{x pag. 58. 43.}
nia, quemlibet hominum super se vices Apostolicas gerere,
nisi solum Archiepiscopum Cantuarie.

4. But after the Pope instead of being ^y subject, ^{y Caus. 2. q. 1.} bc.
gan to be esteemed above th' Ecclesiastick Canons,^{cap. 7. 15. q. 2.}
and to pretend a power of altering, and dispensing with^{cap. 2. 3. 4.}
them, and what past by his advise and counsell onely,
was said to be by his authority, he did question divers
particulars had been formerly undoubtedly practic't in
this Kingdom, he seeing them, and not shewing any dis-
like at it; as^z *The receiving Investitures of Churches from* ^{z Ingulph.}
Princes, ^a The calling Synods, The determining causes Ec-^{fol. 500. 2.}
clesiasticall without Appeals to Rome, The transferring a ride literas
Bishops, &c. but the removing these from England un-^{43.}
to a forraign judicature, being as well in diminution of^{Paschal. 2.}
the rights of the Crown, as of this Church, past not with^{Hen. 1. apud.}
Eadmerum,^{Eadmerum,}
out opposition.^{pag. 113. pag. 115.}

5. For *Anselm an Italian*, the first great promoter of
the Papal authority with us, pretending he ought not be
barr'd^b of visiting the Vicar of *St. Peter causa regiminis Ec-*^{b Eadmer.}
clesiae, was told as well by the Bishops as lay Lords, ^c That^{pig. 38. 33.}
it was a thing unheard, and altogether against the use of^{c Eadmer.}
the realme, for any of the great men, especially himself
to presume any such thing without the Kings licence:
who affirmed, ^d *nequaquam fidem quam sibi debebat simul*^{d Eadmer.}
^{pag. 26, 1.}

& Apostolicæ sedis obedientiam contra suam voluntatem posse servare. And the Archbishop persisting in his journey thither, had not onely his Bishoprick seized into the Kings hand, but the Pope being shew'd how his carriage

^eibid. pag. 52, was resented here, did not afford him either ^e *Consilium* ^{17.} or *Auxilium*, but suffered him to live an exile

^f-*Nil iudicii vel subventionis per Romanum prelatum nocti.* all that Princes time ^f without any considerable support, or adjudging the cause in his favour. Which makes it the more strange that (having found by experience

^g *Eadmer.* what he had heard before, that it was the King not the Eadmer.

^{pag. 53,} 28. ^h Pope could help or hurt him) this visit being so little to his advantage, at his first presenting himself to *Henry*

ⁱ *Eadmer.* the first, he should oppose ⁱ that Prince in doing him homage, and being invested by him, a right continued

^{pag. 56,} 7. unto that time from his Ancestors, and by which him-

^b *Eadmer.* self had received ^b the Archbishoprick from his brother, and this on a suggestion that it was prohibited in a councell held at *Rome*: in which he went so far as to

^j *Ibid. pag. 70,* tell the King, ⁱ *quod nec pro redemptione capitatis mei con-*

^k *sentiam ei de iis quæ præsens audivi in Romano Concilio prohiberi, nisi ab eadem sede interdictorum absolutionis pro-*

deat, à qua constitutionis ipsorum vinculum prodiit.

^l *Eadmer.* 6. This is the first, if not the onely time that to what

^{pag. 92, 40.} *vide Concil. Spelm. pag.* was acted at *Rome* an obedience was required here, as

^{166, 9.} not to be dispensed with but from thence: for it is un-

^m *Hen.* doubted, this Kingdome never held it self tyed by any

Knighton thing past there, till received here; as ^k *Eadmerus* rightly

^{1296. col.} observes, things done there not ratified here to be of no

^{2491. vide} value. And when ^l *Vvinchelsea* 1296. would have intro-

^{Mat. West.} duced the contrary, it cost him dear, the Clergy forced

^o *Wm.* to reject the command, ^m and the Court to quit her pre-

^{Thorne.} tenses.

^m *de immu-*

n *Eccles.* 7. But the dispute, however the right stood, grew

^{cap. 3. in} so high, the King told *Anselme* ⁿ the Pope had not to-

^{Sexio. Et Tit.} meddle with his rights, and wrote that free letter we find

^{codem cap. 1.} in *clement.* in *Iorvalensis*, col. 999, 30. which I have likewise seen

^p *Eadmer.* in

^{p. 70, 5.}

in an old hand recorded amongst divers other memorials of the Archbishops of Canterbury: though I must needs say it seems to me by ^o Paschalis his answer, repeating a good part of it, not sent by those he names, ^{o Apud Eadmer. pag. 59,} ^{48.} but former messengers. In this controversy the Popes returns were so ambiguous, that he writ so differing from their relations were sent, it was thought fit ^{P Ibid. pag. 56.} ^{22.} ^{q Ibid. p. 73,} ^{13.} Anselme should himself go to Rome: with whom K. Henry sent another, ^{r Ibid. pag. 75, 27.} ^{ibid.} who spake plainly, his master *nec pro amissione regni sui passurum se perdere investituras Ecclesiarum;* and (though Rome were willing to comply in other particulars) told Anselme denying that, ^{s Ibid. pag. 79,} ^{24.} ^{t Eadmer. pag. 80, 27.} he could not assure him of a welcome in England, who thereupon retired to Lyons: where finding slender comfort from ^{x Ibid. pag. 91, 21.} ^{y Ibid. p. 87,} means of Henry's sister made his peace; at which yet he was not permitted (such was his spirit) to enter England, ^{z Ibid. p. 100,} ^{35.} ^{1.} denying to communicate with them had received Bishopricks from the King, but by the Popes dispensation. The conclusion was, Paschalis taught by experience, neither the Court of Rome nor th' Archbishop gained ought by this contest, however he would not at first abate ^{a Gervas. Dobroern. Anne 1187. col.} ^{praedecessoris sui sententiae rigorem,} yet now admitted great limitations to what Urban had established. So as the King assenting none for the future should be invested *per laicam manum* (which was no more, but what he formerly did himself, he would now cause to be performed by a Bishop) the other agreed no prelats to be barr'd of promotion, *etiam si hominia Regi fecerint,* ^{b Hugo 3. Abbas Si. Autem gustini gratianus tamen admissus sus juravit fidelitatem D.} ^{1873, 56.} ^{c. Wm. Thorn, Ann. 1220. col.} *et hoc donec per omnipotentis Domini gratiam ad hoc omittendum cor regium molliatur,* &c. which yet the King soon after, on the Popes permission of them to the Dutch, did threaten *sine dubio se resumpturum suas investituras, quia ille suas tenet in pace;* but for ought I find, it went no farther then their swearing fealty to the King, which seems to have been long & contynned.

8. The Papacy finding by this contest the difficulty of carrying any thing here by an high hand, thought of more moderate wayes for bringing the Clergy of this nation wholly to depend on *Rome*; but that could not be without diminishing the power the Archb.ishop held over them, and therefore must be wonne by degrees: to advance which nothing could more conduce, then to have a person of wisdome reside here, who might direct this Church according to the Papall interest. But this was thought fit to be given out before practic't, and likely to be doubly opposed, for th' Archbishoƿ well un-

^b Mat. Paris derstood the admitting a Legat for that end to be ^b in Pag. 440, 17. *sue dignitatis præjudicium.* And the King suffered none Anno 1237. Lond. 1640. to be taken for Pope, but whom he approved, nor any to receive so much as a Letter from *Rome*, without acquainting him with it, and held it an undoubted right c Eadmer. of the Crown, ^c *ut neminem aliquando legati officio in* pag. 125, 53. *Anglia fungi permitteret, si non ipse, aliqua precipua que-* p. 6, 25. p. 113. *rela exigente, & quæ ab Archiepiscopo Cantuariorum & esterisque Episcopis regni terminari non posset, hoc fieri à Papa postularet, &c.*

^d Eadmer. 9. Things standing thus in the year 1100. th' Arch-
bishop of Vienna coming into England, ^d reported him-
self to have the Legatine power of all Britain com-
mitted unto him; which was with so much admiration of
the Nation (as a thing had not been heard of before) that
(if he had any) at least he thought not fit to make use of
his Commission, but departed *a nemine pro Legato sus-ceptus, nec in aliquo Legati officio functus.*

^e Eadmer. 10. Fourteen years after ^e *Paschalis* the 2. by Letters
p. 113. p. 116. of the 30. of March and 1. of April, expostulates with
the King about severall particulars; of which one is, his
admitting neither messenger nor Letter to be received,
but by his leave: but see the words; *Sedis Apostolicae
nuncii vel literæ præter jussum regiae majestatis nullam in
potestate tuâ susceptionem aut aditum promerentur, nullus
inde*

inde clamor, nullum inde judicium ad sedem Apostolicam deflinantur, &c. and the year following address f An. f Eadmer. selme (nephew to the late Archbishop, and after Abbot of St. Edmundsbury) hither, shewing by Letters he had committed unto his administration *vices Apostolicas in Anglia*. This made known here (though the bearer were not permitted to enter the Kingdom) the Clergy and Nobility gathered in councell at London concluded th' Archbishop should go to the King in Normandy, make known unto him the antient custome of the Realme, and by his advice to Rome, (as being the person was most interessed in it) ut hæc nova annihilaret; from whence he obtained the Letter, or rather declaration to the King and Clergy the same author hath g recorded. So g pag. 120. by this care the matter was again stopt.

11. The King 1119. b sent his Bishops to a Councell held by *Calixtus* the 2. at *Reims*, at their departing gave them these instructions: Not to complain of each other, because himself would right each of them at home; That he payed that rent his predecessors had formerly done, and enjoyed likewise those priviledges had been formerly permitted them; That they should salute the Pope from him, hear his precepts, but bring no superfluities into his Kingdome: but see the words; *Rex Anglorum prælatis regni sui ad Synodum ire permisit; sed omnino ne alicujusmodi querimoniam alterutrum facerent, prohibuit. Dixit, omni plenariam rectitudinem conquerenti faciam in terra mea: redditus ab anterioribus constitutos Romanæ Ecclesiæ singulis annis errogo, & privilegia nihilominus ab antiquis temporibus pari modo mihi concessa teneo. Ita dominum Papam de parte mea salutate, & Apostolica tantum precepta humiliter audite, sed superfluyas ad inventiones regno meo inferre nolite, &c.* Certainly this prince did hold the Pope with the advice of a Councell might labour to introduce superfluous inventions, which the English were not tyed to receive, the disputes of his Bishops.

b Ordericus Vitalis pag. 857, d pag. 858, a.

i cap. 8.

shops be by him ended at home without carrying their complaints beyond Seas , according to th' Assize ; of *Clarendoun*; the King in nothing obliged to *Rome*, but in the payment of *Peter-pence* , as his father had before k exprest himself.

K Baron. 10.
11. anno
1079. n. 25.
ꝝ Lanfran-
ci Epif. 7.
l Eadmer.
p. 125, 51.

m Eadmer.
pag. 137, 46.
pag. 138, 21.

12. In November following the Pope and King had a ^l meeting at *Gisors* in *Normandy* , where *Calixtus* confirmed unto him the usages his father had practic't in *England* and *Normandy* , and in especiall that of sending no Legat hither , but on the Princes desire. Yet notwithstanding the same *m* Pope not fully two years after addrest another Legat to these parts: but he by the Kings wisdome was so diverted , *ut qui Legati officio fun-
gi in tota Britannia venerat, immunis ab omni officio tali
via qua venerat extra Angliam à Rege missus est* , &c.

n Eadmer.
pag. 116, 23.
o Ibid. p. 125.
21.

p Answer to
Sr. Ed. Cook,
de jure Regis
Ecclesiast. c. 9.
n. 8. p. 200.

13. But hereby the way the reader may take notice, these words, *" Collata , o Imperata, Concessa, Per-
missa,* used by our best authors in speaking of the Rights of the Crown in points of this nature, do not import as if it had onely a delegatory power from the Pope by some grant of his , as is fancied by those *p* would have it so; for we read of no such concessions from him, unlessc *Ecclesiast. c. 9.* that of *Nicholas* the 2. of which in the next: But that they were continually exercised, the Pope seeing, & either approving , or at least making no such shew of his disliking them , as barr'd their practice, which by comparing the said authors is plain. *Eadmerus*, p. 125, 53, 54. speaks as if these customes were *concessa, fungi permissa* from *Rome*; which pag. 118, 33, 40. he calls *antiqua Angliae consuetudo, libertas Regni, &c.* So pag. 116, 22. he terms them *privilegia Patri & Fratri suo, sibique à Romana Eccle-
sia jam olim collata , &c.* about which yet it is manifest, even *q* by him , the Court of *Rome* was ever in contest with our Kings about them , who maintained them as their Royalties against it, and challenged by *Henry the 1.* by no other title then *dignitates, usus, & consuetudi-
nes,*

q Eadmer.
p. 6, 23. &
lib. 2. per to-
tum. p. 113,
1. &c. p. 115.
*r Hen. 1. E-
pif. apud Jor-
val. col. 999,
46, 49.*

nes, quas Pater ejus in regno habuit, &c. which the Pope ^s calls honores quos anteceſſorum noſtrorum tempore ſ Eadmer. Pater tuus habuerat, and affirms to be grata in ſuper- p. 591. 50. ficie, --- interius requiſita & Legati vocibus expoſita, gra- via & vehementiſſima paruerunt: ſo far have Popes been from conſerring the leaſt unto them. ſee cap. 3. n. 19.

14. It is true, things done by Princes as of their own Right, Popes finding not means to ſtop, would in former ages as later, by privilege continue unto them.

Nicholaus Papa hoc Domino meo privilegium, quod ex paterno jure fuſcepereat, præbuit; ſaid th' Emperours Advocate. And the ſame Pope finding our Kings to expreſſe one part of their Office to be *regere populum Domini, & Eccleſiam ejus*, wrote to Edward the Confessor, *Vobis & posteris vestris regibus Angliae committimus advocationem ejusdem loci, & omnium totius Angliae Eccleſiarum,*

& vice noſtra cum Concilio Epifcoporum & Abbatum conſtituatis ubique que ejusſta ſunt. As a few years ſince, ^{n. 23.} the Republike of Venice not aſſenting to ſend their Patriarch to an examination at Rome, according to a Decree of Clement the 8th, *Paulus Quintus* declared that *impoſterum Venetiarum Antiftites Clementis decreto eximerentur:* ſo that now that State doth by an exemption what they did before as Sovereign Princes. Besides, Kings

did many times as graunts ask those things of the Pope, they well understood themſelves to have power of doing without him. ^{u Mautocer Hift. Ven. Ann. 1601. p. 629. c. Ann. 1609. p. 687. b. Card. Oſſat. Epift. Rome 17. Sept. 1601.}

^{x Narratur hæc p. 56. 57. in vita Henrici Chicheley ab Arthurо Duck edit. 1617.} Henry the 5^{th.} demanded of Martin the 5. five particulars: to which his Ambaffadors finding him not ſo ready to aſſent, told him ſe in mandatis habere, ut coram eo profitantur, *Regem in iis singulis jure ſuo uſurum, utpote qua non neceſſitatis, ſed honoris cauſa petat, & ut publicam de eare coram univerſo Cardinalium cœtu protestationem interponant.* And to the ſame purpose there are ſundry examples yet remaining on record, where y the King on the petition of the Commons for redreſſe of ſome things (of Eccleſiaſtick

See cap.4.

n. 20.

z Malms. de
Pontif. l. 1. in
Anselm.

fol. 127. 15.

Gervas. Do-
robern. col.
1327, 58.

e Eadmer.

p 58, 44.

b Ibid. p. 115,
17.c Dicero col.
437, 64.

d Eadmer.

pag. 27, 34.
principi ve-
stro Anselmo.e Ibid. p. 107,
33. pag. 113,
47.f Gervas. Do-
robern.

col. 1663, 55.

g Eadmer.

p. 30, 9.

h Eadmer.

pag. 113. 47.
continuatio

Florent.

Wigorn.

Ann. 1136.

pag. 513.

i Gervas. Do-
robern. col.
1663, 55.

k Florent.

Wigorn.

Ann. 1070.

l post. n. 18,

20, 60.

m supra n. 11.

n vid. Mat.

Paris Ann.

1246. p. 699,

10. vide post

n. 38. in textu

e in margine.

e Malms. fol. 152. b. 12. see n. 8.

cognizance) amisse, first chuses to write to the Pope; but on his delay, or failing to give satisfaction, doth either himself by statute redresse th' inconvenience, or command the Archbishop to see it done.

15. But here before I proceed any farther, because it cannot be denied, in former times there was often intercourse between the Church of *England* and *Rome*, and such as were sent from thence hither are by some styled *Nuncii*, by others *Legati*; I think it not amisse to consider what the cause was one side so much opposed the sending a Legat, and the other so laboured to gain it.

16. After the erection of *Canterbury* into an Arch-bishoprick, the Bishops of that See were held *quasi alterius orbis Papae*, as *Urban* the 2. z styled them, did onely exercise *a vices Apostolicas in Anglia*, that is used the same power within this Island the Pope did in other parts; the one b claiming, because *Europe* had been converted by disciples sent from *Rome*; the other, that he had sent c preachers through *England*. And is therefore called frequently in our writers d *princeps Episcoporum Angliae*, e *Pontifex summus*, f *Patriarcha*, g *Primas*, and his seat h *Cathedra Patriarchatus Anglorum*; and this not in civility onely, but they were as well i *sic habitu as nominati*. It is true, the correspondence between it and the *Roman* was so great, they were rather held one then two Churches: yet if any question did arise, the determination was in a councell or convocation here; as k the deposing *Stygand*, l the settling the precedency between *Canterbury* and *York*, m the instructions I mentioned of *Hen. 1.* to his Bishops, n the right of the Kingdome that none should be drawn out of it *uctoritate Apostolica*, do enough assure us, if recourse were had to *Rome*, it was onely o *ut majori Concilio decidatur quod terminari non potuit*, as to the more learned divines, to the elder Church, of greatest note in *Europe*, by whom these were conver-

ted,

ted, and therefore more reverenced by this, as that was most sollicitous of their well-doing, and most respected for their wisdome. All which is manifest by that humble Letter: *Kenulphus & others of Mercia* wrote about 797. *to Leo the 3.* wherein it plainly appears, he seeks to that See for direction, because the conversion of the Nation first came from thence, and there resided in it men of sound learning, whom he doth therefore desire as *quibus à Deo merito sapientiae clavis collata est*, ut super hac causa (which was the placing an Archiepiscopall chair at *Litchfield*,) cum sapientibus vestris queratis, & quicquid vobis videatur nobis postea rescribere dignemini. By which it is clear his inquisition was as unto persons of profound literature, (had the key of knowledge conferred on them) not as to those had auctority over this Church.

17. As for acts of Ecclesiastick auctority, what proceeded not from the King, did from th' Archbishop, who was not at all commanded by any, *& nullius unquam legati ditioni addictus*, but qpreceded them all. ^p None did were a Miter within his Proviace, or had the Crozier carried, nor layd any excommunication; and when he did, the Clergy of the place did teach, both from the King and Archbishop, not to value it, on this ground, that *in Diœcesi Archiepiscopi Apostolicam non tenere sententiam*.

18. As for Councells, it is certain none from *Rome* did, till 1125. call any here: if they did come to any, as to *Calciuth*, the King upon the Advise of th' Archbishop *statuit diem concilii*. So when *William* the first held one at *Winchester* 1070. for deposing *Styand*, though there came to it three sent from *Alexander the second*, yet it was held *jubente & presente Rege*, who was *x* president of it. The difference touching precedency between the

^p Ger. Dorobern. Ann. 1187. col. 1531, 38. ^t Concil. Spelman. pag. 293.
ⁿ Florent. Wigorn. Ann. 1070. pag. 434. ^x Vita Lanfranci cap. 7. p. 7. col. 1. d.

i. ibid. de Regibus lib. 1. fol. 16.

p Gervas.
Dorobern.

col. 1663, 55.

q Ibid. col.

1485, 63.

r Non est ante

haec tempora

Archiepiscopo

Cantuariensi

talis illata in-

juria, ut in

Provincia

eiusdem ar-

chiepiscopi,

immo & in

Ecclesia, uide

cruce fleam,

Legatus ali-

quis miratus

incederet.

Gervas. Do-

robern. Ann.

1186. col.

Sees of *Canterbury* and *York* having been before the same Pope, and by him sent back for a determination at home, it is observable, that in a Councell said therefore to be called *ex p*re*ecepto Alexandri Pap*e annuente Rege**, the Popes Legat subscribed the 16th. after all the *English*

Note, you must see these sub-scriptions in the London edition 1572. for in that of Hanau 1605. they are for the most, (I know not on what warrant,) omitted.

Diceto col. 485, 24. a in Bibliotheca Cotton fol. lxxiiii.

Mat. Paris hist. minor. Ann. 1107.

Bishops: as is truly y recorded in the *Antiquitat. Britannica Ecclesiæ p. 95, 40.* agreeing with a very ancient Ms. copy I have seen of the said Councell; as *Diceto* and others do *z* rank him after the King, *Canterbury*, and *York*. If any shall ask whether I have met no copies in which he was placed otherwise, I must confess I have seen some books wherein he was above the *English* Bishops, next after the Queen; but they were onely late Transcripts, not of any Antiquity, as in a *book of Crouland* writ since the beginning of *Henry the 7.*

19. The Pope for many years now past, for being a Spirituall Pastor, and Patriarch of the West, hath been treated with more reverence than any Bishop, and for being a potent temporall Prince, with more observance then meerly a Ghostly Father. A *b* grave writer notes, *Henry the first having gonethrough the troubles were on him with his brother, and likewise Anselm, subjugatis omnibus inimicis securus erat; nec aliquem ut primitus formidabat præter Papam, & hoc nou propter spiritualem, sed temporalem potestatem.* Which as it is recorded of that Prince, so no question is true of many others.

20. By which we may see, when *Rome* did in former times *Apostolica authoritate præcipere*, it was to Bishops (whom he styled his brothers,) no other then such fraternall commands the elder may and doth ordinarily lay upon the younger brother, of whom he is sollicitous; such as *St. Pauls* were *c* to the *Theffalonians*, *d Philemon*, &c. No other then of late *Calvins* were to *Knox*, who being chosen by certain of *Franckford* to be Preacher unto them, *e their vocation he obeyed, albeit unwillingly, at the commandment of that notable servant of*

c 2 Thess. iii.

12.

d Philem. 8.

e Knox Hist. church of Scotland p. 93. edit. 1644.

of God John Calvin, &c. And a little after the Lords of Scotland sending for him home, ^f did accompany their letters to him with others to Mr. Calvin, craving of him, that by his authority he would command the said John once again to visit them, &c. And truly whosoever will without partiality seriously consider the whole contexture of our Lawes and Histories, weighing one circumstance with another, must conclude the Popes commanding to have been *volentibus*, not *nolentibus*, (as ^g St. Hierom says those of a Bishop ought to be) for if disliked, his precepts were ^h questioned, ⁱ opposed, ^k those he sent not permitted to meddle with that they came for, their prohibitions that others should not, neglected: The English having ever esteemed the Church of Canterbury in Spiritualls, that is *quaesunt ordinis*, without any intervening superior ^l *omnium nostrum mater communis suspensi sui Iesu Christi dispositione*; in other things, as points of Government, the ordering that of right and custome ever to have belonged to the King assisted ^m with his councell of Bishops, and others of the Clergy, who was therefore called *Vicarius Christi*, &c. as I shall shew hereafter more at large. ⁿ The Church of England holding that of St. Augustine an undoubted truth, *In hoc Reges, sicut eis divinitus præcipitur, Deo serviunt in quantum Reges sunt, si in suo regno bonajus-beant, mala prohibeant, non solum que pertinent ad humana-m societatem, verum etiam que ad divinam religionem:* and accordingly our Kings, so far as any Laws or Records of their actions are extant, from Ethelbert by the Saxons to the Conquest, and from the Normans to these later times, have upon occasion exercised a power, shewing such titles were not in vain conferred on them. Neither did any decision, though never so punctually

^f Ibid. p. 110

^g Epitaph.
Nepotiani ad
Heliodorum

^h 1.

^b Eadmer.
p. 92, 40.

p. 125, 29.

ⁱ Gervas. Do-
robert. col.
1315, 66.
1316, 8. ^o
1318, 39.
1359, 41, 59.

Wmvs

Thorn 1502,
26. 1848, 28.

and these
may serve
in lieu of
many others
may be
alledged.

^k Ger. Doro-
bert. col.

1558, 54.

^l Ibid. col.

1663, 24. col.
1615, 62.

ⁿ Si Episcopi
tramitem ju-
sticie in aliquo
transgrederen-
tur, non esse
Regis, (viz.
alone,) sed

canonum judicium, sine publico & Ecclesiastico Concilio illos nulla possessione privari debuisse; Regem id non relictudinis zelo, sed commodi sui compendio fecisse. Malms. fol. 103. a. 18. reports this saying of a Legat. see n. 24. in *Contra Crelcon. Grammat. l. 3. cap. 51. 10. 7.*

had in *Rome*, unless the parties agreed, stint the strife, till the King concurred with it; as the frequent determinations on the behalf of *Canterbury* in point of superiority above *York*, found in *n Malmsbury* and others, may teach us, which yet never received a final end, till *Edward* the 3. under the great seal set a \circ period to that long controversy.

*n Malms. de Pont. lib. 1.
fol. 118, a. 10
fol. 120, b.
o Antiquit.
Britan. Eccle-
siae, in Simone
isle p. 209,
15.
p De auctoritate
& usu
Pallii cap. 4.
q De Electio-
ne & electi
potestate c. 4.
r Lyndwood
de temp. ordi-
nand. cap. 2.
ad verbum ex-
preſſe,
ſ Philip. iii. 3.
t Wm. Thorn.
col. 1801, 53.
u Ibid. 1814,
34.
x Gervas.
Dorobern.
Ann. 1193.
col. 1602, 64.*

21. But after the Pope began to think (or rather to say) himself had only *P plenitudo Ecclesiastica potestatis*, ^q that no Councell could give Laws to him, but all receive strength from him, and the Canonists flattery extended to declare him *r suprajura, & in eo sufficit pro ratione voluntas*; his missives ran in an higher tone then formerly, and his commands, which were at first according to ^f th' example of *St. Paul* joyned with exhortations, entreaties, and the like, to carry *s Apostolica au-
toritate comprimere*; and to th' Archbishop demurring in th' execution of them, *"tuum candelabrum concutie-
mus, & tantam presumptionem cum gravibus usuris exi-
gemus;* and, *x si mandatum nostrum neglexeris vel distu-
leris adimplere, quia justum est ut ei obedientia subtrahatur qui sedi Apostolice neglexerit obedire, venerabilibus
fratribus suffraganeis tuis per scripta nostra mandavimus,
ut tibi reverentiam non impendant. Quodſſ &c. tibi fece-
ris exhiberi, ſcias te tunc ab Episcopali dignitate ſuspen-
ſum, &c. phrases and manners of writing denoting much more of authority then was used by Popes in elder times. By which is manifest, the point in difference between the Archbishop and the Pope to have been not the sending a Legat hither, but of one with a power above him, to command the *English Clergy*, that is to remove their dependency from him to *Rome* as a superior over him.*

22. To his gaining which these usages of th' Archbishops were great stops, drawing so near an equality, and so pregnant testimonies of his no-divine right to meddle

meddle here, not easy to be removed, unlesse some from the Pope were admitted into the Kingdome, that might at least give an eslay to the guiding the *English* Church after the papall interest: but that, how earnestly soever prest, came to no effect till 1125. *Iohannes Cremensis*, a person well understanding (as y appereas by his carriage six years before at *Reims*) the designes of *Rome*, ^{Ordericus Vitalis pag. 862.} ^z came to the King in *Normandy*; where after some stay, his journey hither was permitted; with what qualifications I find not; but coming with Letters to *Canterbury* at Easter, performed th' Office of the day in a more eminent chair as an *Archbishop*, for so I *English loco summi Pontificis*, according to the ^a phrase of those times, and, though a *Cardinall priest*, used ^b *insignis Pontificalibus* the habit of a *Bishop*: which being an unusuall novelty, past not without scandall. But in a councell which he held and presided in at *London*, the Kingdom took more offence: I shall deliver it in my authors own words; ^{et} *Totam Angliam in non modicam commorit indignationem: Videres enim rem eatenus regno Anglorum inauditam, Clericum scilicet Presbiterii tantum gradu perfunctum, Archiepiscopis, Episcopis, Abbatibus, totiusque regni nobilibus qui confluxerant, in sublimi solio praesidere; illos autem deorsum sedentes, ad nutum ejus vultu & auribus animum suspeſum habentes.* From whence we may conclude it a thing before not heard of, for any Legat, though a *Cardinall*, to precede *Bishops*, (the first Councell in which they preceded *Archbishops* I take to have been the Councell of *Vienna* 1311. where th' *Archbishop of York* is noted to have been placed ^d *primus & pricipauus post Cardinales, & post Trevirensem Archiepiscopum;*) or be seated in a more eminent place over them; (I haue shew'd they did not subscribe in *English Councells* above them;) that these mutations were scandalous to the nation.

23. As this is the first Ecclesiastick Syad called and managed

^a *Eadmer.*
pag. 107, 33.
pag. 113, 4.
*Get. Doro-
bern. col.*
1663, 55.
^b *Institutio no-
ritas. Doro-
bern. Ibid.*
^c *Get. Doro-
bern. Acta
Pont. ibid. col.*
1663, 42.

^d *Thomas Stubs, Act.
Pont. Ebor.
col. 1730, 30.*

^e *Supran. 18.*

f Apud Sim. Dunelm. col. 252. 22.
 g John xxi. 15. 16. 17.
 h Apud Eadmer. pag. 115.
 i Ann. 1115.
 k Anselme 1095.
 l Reims 1119.
 m Petrus Ble-sensis. Epist. 148.
 n De considera-tione ad Eu-gen. lib. 2. cap. 8.
 o Ext. Com. de Majoritat. & obedient. c. 1.
 p Malms. de Pont. lib. 1. fol. 131. b. 39.
 q Gervas. Dorobern. col. 1663. 64.
 r Eadmer. pag. 14. 13.
 s pag. 30. 9. pag. 93. 3.
 t Ibid. 58. 43.

managed by any Legat from *Rome*; so before his cre-dentiall f Letters from *Honorius* the 2. as well to the Lay as Clergy, I have not met with the Text g *Pasce oves meas* used to prove him the generall Pastor of all the World: it is true, *Paschalis* the 2. h ten years before uses it to prove his authority over i Bishops; but neither doth k *Anselme* 1095. produce it, neither doth this Cardinall at l *Reims* 1119. mention it, though either of them did alleudge as many places of Scripture as were then com-mon to prove th' extent of his power; and *Petrus Ble-sensis*, that lived a little after, m interprets it as spoken to all Bishops, and to import no other then *Evangelizare*: a certain signe, if that exposition were hatch't be-fore, it was not common, which afterward approved by n *St. Bernard*, and inserted into o the Canon Law by *Boniface* the 8. about the year 1300. is now stood upon as the Basis of papall greatnessse. But to return to that we were on.

24. The Archbishop sensible of these indignities, proceeds not as his predecessor, by joyn't Councell of the Bishops, Abbots and Nobility, but hath himself recourse to *Rome* (who already knew p se converttere ad oratorum versutias, dummodo consulat suis profectibus) where the Pope, (which was *Honorius* the 2.) committed unto him q vices suas in Angliâ & Scotiâ, & Aposto-lica sedis Legatum constituit: So that he who before was r Primas Angliæ, Scotiæ & Hiberniæ, necne adja-centium insularum, that none else s gerebat vices Aposto-licas in Britannia, and this of his own right, without any delegatory power, might now doing the same be said to do it by a power derived from *Rome*. An invention highly advantagious to the Papacy: for before the King and Archbishop, or rather the Archbishop by the Kings will and appointment, had ever taken cognizance of all matters of Episcopacy, as the erection of Bishop-ricks, disposing and translating Bishops, &c. So *Paschalis* the

Chap.III. of the Church of England. 25

the 2. expostulates with *Hen.* the 1. ^c that *præter auctoritatem nostram Episcoporum translationes præsumitis, &c.* and the ^a depositing of them to have been in a Synod ^{t Apud Eadmer. p. 115.}
^b Historians of all times before assure us , even unto ^{43. &} *Lanfrank* , who ^x attempted it upon small grounds against *Wolstan*. As for dividing Bishopricks , and erecting new where none were , ^{* pag. 129, 52.} *Theodore* did five in *Mercia* ^{see n. 20.} *cum consensu Regum & principum* , (without ever sending to *Rome*) as he did others ^y elsewhere. And *Henry* the 1. long after placed Episcopall Chaires at *Ely* and *Carlisle* , without acquainting the Popes with it. It is true, *Anselme* an *Italian*, either not knowing the rights of the Kingdome , or rather out of a desire to interest the Pope in every thing , writes to him of *Ely* , that ^z *de vestra pender auctoritate prudentiae* to adde strength to Ecclesiastick ordinances of this nature ; yet it is clear by his very Letter , the King , Bishops and Nobility had already concluded on it , with whom he had concurr'd , asking *Paschalis* assent after the deed done: which shews rather he did it in civility , then of necessity , *ne à posteris ullapräsumptione violetur* , that no cavilling might arise in the future to the disturbance of an action well settled , that past by so great advice , as not onely the *English Church* , but the first Bishop of the world and Patriarch of the West joyned in seeing the needfulness of it. And it is here not unworthy the rememb'ring , that *Q. Mary* , how much so ever addicted to *Rome* , yet admitted the ^b Bishops of those Sees her Father had erected during the schism (as they called it) to sit in Parliament , before any confirmation of them by the Pope .

25. Of these and the like , though cases proper for the ^c Papacy alone , yet being without scruple exercised

^{2. Pb. & Mar. Journall des Seigneurs :} yet the Act of reconciling this Kingdome to *Rome* , and confirming those Bishopricks by the Pope , past not till the 30. of November after , however they were reputed lawfull Bishopricks before. ^{c Caus. 3, quæst. 6. cap. 7. & de Translat. Epist. cap. 2. Bellarm. lib. 4. de Eccles. cap. 8. §. Ratio, &c.}

^b Gloucester
and Chester
in Parliament

1 Mar. 2 A-

pril 1554.

Parl. 2. item
Parl. the 3.

12 November
1554. I. and

in the Church of *England*, and no controul from *Rome*; it would not be easy to dispossesse the Archbishop of meddling with, by strong hand, especially on an essay made before in the case of *Wilfred*, it being affirmed, *d quod esset contrarationem, homini jambis à tota Anglorum Ecclesia damnato, propter qualibet Apostolica scripta communicare*: the way therefore of making him the Popes Legat was invented, by which those particulars he did before without interruption of his own right, he (whom it was not easy to barre of doing them) might be said to act as his agent: which was about * this time first committed unto him of any Archbishop of *Canterbury*; though *e Baronius*, not finding how the very same past before, fancies *Theodore* to have done them, *cui totius Angliae à Romano Pontifice veluti Apostolice sedis Legato cura credita erat*; who certainly if he were his Legat, was very immorigerous in the case of *Wilfred*. But to leave that as a *Chimera* not to be assented to, mentioned by no ancient author, it is true, not long after he conferr'd the title of *Legatus natus* on th' Archbishop, *s* of which hereafter.

fn. 40.

26. To return to th' Archbishop, who came home with this Legatine power 1127. *g* crowns the King at *Windsor*, and in *May* following holds a Councell at *Westminster*, *cui praeedit ipse, sicut Apostolice sedis legatus*; which is the first Councell any Archbishop is noted to have held as a Papall Legat; and during his life, which was seven years, *England* did not see any other.

h Apud Malmsbur. fol. 101. Io- hannes Ha- Bulstad. col. 259, 9. Richardus Hagulstad. col. 314, 18. vid. col. 313, 32. Gervas. Dorobern. col. 1344, 6.

27. After his death the See of *Canterbury* lay two years vacant, so a fittime for the Pope to look this way, especially K. *Stephen* making it part of his title, that he was *h* confirmed by him in his Kingdome: therefore 1138. *Innocentius*, the second sent hither *Albericus* Bishop of *Hostia*, the second stranger I find exercising the Legatine authority in *England*; yet he was not at first received for one, but *vix tandem pro reverentia Domini*

Domini Papæ. He indeed went farther then ever any had, for he not onely called the Clergy *Apostolica auctoritate* (as our Historians terme it) to a Synod, (I confess he avoyds the word in his letters of summons, styling it *colloquium*, perhaps not to enter into dispute with the King, who then took himself to be the onely ^lcaller of them, and the allower of what they did) but did farther command the Prior and Convent of *Canterbury*, &c. ^m to chuse such an Archbishop, *cui sacrorum canonum auctoritas in nullo valeat obviare, cui comprovinciales Episcopi pariter debeant assentire, & cui Dominus Rex nec possit nec debet assensum suum juste denegare:* but farther not at all intromitting himself. And in the Councell he held, amongst other particulars, he ordained, that if any injured an Ecclesiastick person, ⁿ *Nisi tertio admonitus satisfecerit, anathemate feriatur, neque quisquam ei præter Romanum Pontificem, nisi mortis urgente periculo, modum pœnitentia finalis injungat.* This is the first that by Canon, ought done in *England* was referr'd to *Rome*, as having a greater power then the *English* Bishops to absolve: (of the Laws of *Hen. the 1.* I shall speak ^o hereafter.) But whether it were not here much ^p *n. 30.* regarded, or th' excesses used by King *Stephen* against certain Bishops, and the prohibiting a Councell held at *Winchester* to send to *Rome*, as ^q against the dignity of the realm, or that he freed of imprisonment desired to make so potent a party, as the Clergy then was, more of his side, I cannot say; but assuredly it was again renewed in a ^r Councell at *London* about some four years after.

28. The same Pope 1139. conferr'd upon *Henry, K. Stephens Brother*, and the potent Bishop of *Winchester*, this Legatine power, which was by him publisl't in a Councell at *Winchester*, where his faculties ^s *Malms. fol.* were read ^t bearing date the 1. *March*; and being as well *Angliae Dominus* by reason of the power he held with *Stephen*, as *Apostolicae sedis Legatus*, he called ^u *Malms. fol.* ^v *Ger. Do-
robert. col.* ^w *1343, 44.*

^k *Gervas.*
Dorobern.
col. 1346, 58.
^l *Eadmer.*
p. 5, 29. p. 24.
ii.
^m *Ger. Dor.*
ibid. lin. 65.

ⁿ *Cap. 9. apud Gervas. Do-
rob. 1348. &*
*Richard. Ha-
gust. 328.*

^p *Malms. fol.*
103. a. 1.
b. 54, 55.

^q *H. Hunt.*
fol. 225. a 36.
Ann. 1142,
8. Steph.

^r *Malms. fol.*
103. a. 31.
^s *Ger. Do-
robert. col.*

thither th' Archbishop that had then some contest with the Monks of St. *Augustines*, (whom the Pope generally favour'd against him) referr'd to his decision from

¹ W^m. Thorne
col. 1853, 32.

ⁱⁱ Gervas.
Dorobern.
col. 1665, 24.
indignatus
Theobald.

^x Iohan. Ha-
gulstad. col.
275, 42. *in-*
terdixit Epis-
copo, Episco-
pale & sacer-
dotale officium.

^y Num. 40.

Rome, so that he caused both parties the second time to appear there before him 1143. as Legat, and by compromise ended the busynesse. Yet this calling of the Archbishop ⁱⁱ unto him was not taken well: and the same year 1143. he did by Apostolick command restore *Ieremy*, removed by *Theobald*, (notwithstanding his appeal to Rome) to be Prior of *Canterbury*: which restitution the said Prior did not think fit to stand by, but for avoiding trouble took an 100. marks to pay his debts, and placed himself in St. *Augustines*. By these carriages there grew great distas between these two great Prelats: the one as Archbishop prohibited *Winchester* ^x all Ecclesiastick functions, however the Popes Legat; and both apply themselves to the Pope; from whence our Historians do fetch the use of Appeals to Rome; as indeed there could not well be any cause of them before: for as the one case is the first ever any Archbishop was called out of his Diocese to make answer to any Legat as his Superior; so I believe it will be hard to give an example of ought done by th' Archbishop in his own Bishoprick till now alter'd by a foreign authority. And here, having mentioned the introducing of Appeals, the reader will give me leave to digresse a little, both to shew what is meant by them, and the manner of prosecution of them; and then ^y to return, and observe the event of the Archbishops and Legats in the Court of Rome.

29. It cannot be denyed, the word *Appeal* to have been used in former times with reference to the Papacy.

^z Malmsb. f. 149, a. 50. ^z Cum præsul sedem Apostolicam appellasset, says Malmsbury of *Vilfred*; and a Councell held in Italy concerning him, ^a *Apostolicam sedem de suâ causâ appellans*: Logulpho MS. sen additionibus ejus, in *Biblioteca Cotton.*

and

and so of some others. Yet nothing is more certain then those in whose time this was did not at all hold the Pope to have any power of righting him , other then by intercession ; not as a superior Court , by sentencing in his favour , to undo what had past *Theodore*; (* without whose assent the King could not have deprived him of his seat,) for when the Popes ^b Letters were brought hither for his restitution , *Egfrid*, with th' advise of his Bishops , not onely refused , but clapt *WVilfred* in prison ; and after his death the ^c Pope sending others *vita graves & aspectu honorabiles* , *Alfrith* though he received the men with great reverence , yet would by no means admit the restauration they came about , but affirmed it against reason to do it (he having been twice condemned) *propter quaelibet Apostolica scripta*. And as this was in a time when Christianity most flourished in this Nation , having in generall ^d *fortissimos Christianos que Reges* ; so of the Kings that did it , of *Egfrid* ^e *Beda* left , that he was *piissimus & Deo dilectissimus* : neither can he find any other thing to blame in *Alfrith* worthily , and the Bishops that did ^f concur in the action were & holy men , well seen in divine and secular learning ; so that it is not imaginable any thing past them not warranted by the Doctrine and rules of this Church.

30. For the understanding of which, we are to know the word *Appeal* is taken severall wayes; sometimes ^h to accuse , sometimes for referting our selves to some one for his judgment ; such was that of *WVilfreds* appealing to *Rome* , as to a great spirituall Doctor and Church whose judgment was very venerable in the World , as of late *John Calvins* and the Church of *Geneva* was to them of *Scotland* and *Frankford* , &c. another way we take it for removing a cause from an inferior to a superior Court or Judge ; that hath power of disannulling whatsoever the former did; and this is that our Historians affirm not to have been in use till af-

^{*} *Stubs de Archiepisc. Ebor. col. 1691. 10. h Malm. fol. 150. a. 43.*

^c *Ibid. fol. 152. 2. 32, 34.*

^d *Beda lib. 4. cap. 2.*
^e *Apud Malmesbur. f. 10. b. 23, 36.*

^f *Stubs de Archiepisc. Ebor. in Wilfrido col. 1691, 10.*

^g *Bed. lib. 4. cap. 2. cap. 9. lib. 5. cap. 20.*

^h *Blasius D. sium de proditione appellabat. Liv. lib. 26. such were those Appeals in Parliament, the 11. and 21. of Ric. the 2. which might be otherwise called accusations.*

Eadmer.
pag.39, 21,
30.

ter 1140. It is certain , long after *VVilfred*ⁱ the Bishops and Nobility did assure *Anselme* , that for any of the great ones, especially him , to have recourse to *Rome* without the Kings leave , to be *inauditum & usibus ejus omnino contrarium* ; and therefore required of him an Oath , *quod nunquam amplius sedem Sancti Petri, vel ejus vicarium, pro quavis quæ tibi ingeri queat causa appelles*. I know *Anselm* , an *Italian* , where the opinion of the Papall absolutenesse had now begun to root , did maintain this was *Petrum abjurare* , and that *Christum abjurare* , and is the first of our Bishops speake any thing in that sort; with whose sense the Kingdome did not concur in it. For it is manifest , in those dayes and after , Appeals to *Rome* were not common. In the

^k Apud Ead-
mer. p.113, 3.

¹Ibid. p.115.
33.

Nullus inde clamor, nullum iudicium ad sedem Apostolicam destinatur: and again , ¹*vos oppressis Apostolicae sedis appellationem subtrahitis*. And *Anselme* himself speaking of the proceeding of the King in a case by him esteemed onely of Ecclesiastick cognizance , lays down

^m pag. 85, 41. the manner to be , that it should be onely^m *ad singulos Episcopos per suas parochias, aut si ipsi Episcopi in hoc negligentes fuerint, ad Archiepiscopum & primatem* ; adding nothing of carrying it to *Rome* , of which I know no other reason , but that it was not then usuall to remove causes from the Primate thither. Yet after this, either the

^{*} Henry the
² f. importunity of the Pope prevailed with the ^{*} King , or the passage was inserted after his dayes into the Lawes

ⁿ Fabiani E-
pis. 3. & Sixti
3. tom. 1.

Concil. &
apud Gratian. for a rule that of Popeⁿ *Fabian* or *Sixtus* 3. *ibi semper*

^{c. 3. q. 6. cap. 1.} *causa agatur ubi crimen admittitur* , yet a Bishop erring in faith , and on admonition appearing incorrigible ,

^{Leg. Hen. 1.} ^o *ad summos Pontifices (the Archbishops) vel sedem Apostolicam accusetur*. This is the onely case wherein I find any English Law approve a forreign judicature.

^{cap. 5. p. 178.}

^{28.}

^{o Leg. Hen. 1.}

^{pag. 179, 9.}

31. But whether from the countenance of this Law, or the great oppressions used by the Legat King *Stephens* Brother, or the frequency of them, it is certain, 1151. Appeals were held a & cruell intrusion on the Churches Liberty; so as in the Assize at *Clarendoun* 1164. collected by the body of the Realm, & the 8. Chapter is solely spent in shewing the right of the Kingdome in that particular: which *Johannes Sarisburiensis* interprets, *quod non appellaretur pro causa aliqua ad sedem Apostolicam, nisi Regis & Officialium suorum venia imperrata.* Upon which the Bishop of *London* moved *Alexander* the third, *Becket's* cause might be determined *Appellatione remota:* at which the Pope seems to be moved, and told him, *haec est gloria mea quam alteri non dabo.* And though it seems by a ^t Letter of the same Prelat, the King would have restrained his power only to such as had first made tryall of receiving justice at home, claiming *ex antiqua regni institutione, ob civilem causam nullus clericorum regni sui fines excat, &c.* and that too, if amiss, would have corrected by th' advise of the English Church: yet while th' Archbishop lived, that would not be hearkened to; but after his death, at the peace which 1172. ensued between him and the Church of *Rome*, it was onely concluded, the King not to hinder Appeals thither in Ecclesiastick causes, yet so as a party suspected before his going was to give security not to endeavour *malum suum nec regni.* But the Kingdom meeting in Parliament at *Northampton* 1176. not fully four years after, would not quit their interest, but did again renew th' Assize of *Clarendoun*, using in this particular somewhat a more close expression:

Iusticie faciant querere per consuetudinem terrae illos qui à regno recesserunt, & nisi redire voluerint infra termimum nominatum, & stare in curia Domini Regis, ut lagentur, &c. in effect the same as *Gervasius Dorobernensis* well understood, who tells us, "Rex Angliae

^p Hunt. fol.
227. b. 7 C
alii.
^q Gervas.
Dorobern.
col. 1387.
^r Epist. 159.
pag. 254.

^s Gervas. Do-
rober.
col. 1396.
^t Apud Ho-
veden, Ann.
1166. fo. 287.
b. 44. apud
Dicet. Ann.
1168.

Henricus

^r Apud Ho-
ved. fol. 314.
b. 3.
^u Gervas.
Dorobern.
Ann. 1176,
cql. 1433, 19.

Henricus convocatis regni primoribus apud Northamptoniam, renovavit assisam de Clarendonia, eamque præcepit observari; pro cuius execrandis institutis beatus martyr Thomas Cantuariensis usque in septennium exulavit, & tandem glorioso martyrio coronatus est.

32. After which the going to *Rome* remained during this Kings and his Son *Richard's* time, onely according to their pleasures, the Clergy lying under the penalty of this Law, if they did attempt farther then the Princes liking: of which we have a very pregnant example in the case of *Geffrey* Archbishop of *York*, K. Richards Brother, who accused to *Cælestinus* 3^o that he did not onely x refuse Appeals to *Rome*, but imprisoned those who made them; upon it the Pope y commits the cause to be heard by the Bishop of *Lincoln* and others, who thereupon^z transfer themselves to *York*, where hearing the Testimonies of those appeared before them, assigned him a time to make his defence to the Pope. But the Archbishop being then well with his Brother, pretended he could not present himself in *Rome* ^a for the Kings prohibition, and the indisposition of the aire. Not long after the King and he fell so at odds, ^b quod præcepit illum diffisiri de Archiepiscopatu suo, &c. *Cælestinus* upon this takes an opportunity to declare a suspension to be notified through all the Churches of his Diocese, injoyning, what the King had before, the Lay as well as the Clergy, ^c ne ipsi Archiepiscopo vel officialibus ejus in temporalibus respondere præsumant, donec de ipso Archiepiscopo aliud duxerimus statuendum. The offence with his Brother still remaining, the Bishop expecting now no help at home, goes upon this to *Rome*, makes his peace with the Pope, and returns: but the King ^d committed the care even of the Spirituals of his Archbischoprick to others, without permitting him or his Agents to meddle with ought, till about two years after he ^e reconciled himself to the Crown; after which he gave *Innocentius*

^x Epist. Cœlestini apud Hoveden.

^y Ann. 1195.

fol. 426. b. 26.

^y Eadem Epist.

^z Idem, f. 427.

a. 26.

lin. 38.

a Hoveden,

Ann. 1195,

fol. 427. a. 48.

b Ibid. f. 428.

a. 42.

c Hoved.

Ann. 1196.

fol. 434. a. 23.

d Ibid. fol.

435. b. 52.

e Ibid. fol.

442. b. 19.

tius 3^{us} occasion to write, s Non excusare te potes ut debes, quod illud privilegium ignoraris, per quod omnibus inuste gravatis facultas patet ad sedem Apostolicam appellandi, cum & tu ipse aliquando ad nostram audientiam appellaris; and a little after, *Nec auctoritatem nostram attendis, nec factam tibi gratiam recognoscis, nec appellationibus defers que interponuntur ad sedem Apostolicam, &c.* And about the same time *Robert Abbot of Thorney*, deposed by *Hubert th' Archbishop*, was laid in prison a year and half without any regard had of the Appeal by him made to the Pope: and this to have been the practice during King Richards time, the continued quarrells of Popes for not admitting men to appeal unto them doth fully assure as.

33. But *Innocentius 3^{us}* having prevailed against King *John*, and the Clergy great instruments in obtaining *Magna Charta* from that Prince, either in favour of them, or for some other reason, there was inserted, ^h *Liceat unicuique de cetero exire de regno nostro & redire salvò & securè per terram & per aquam, salva fide nostra, nisi in tempore guerræ per aliquid breve tempus:* which clause seems likewise to have been in that of *Henry the 3.* to his Fathers ⁱ *in nullo dissimilis:* after which it is scarce imaginable how every petty cause was by *Appeals* removed to *Rome*, and th' Archbshop forced to appear before any had the least auctority from thence.

The Popes themselves wise men saw th' inconvenience, that these carriages must end either in rendring th' Archbshop contemptible, by taking all power out of his hands, or the Realm resume its ancient right, and prohibit the carrying ought beyond seas, or admitting any Legat into the Kingdom; thought of the way of granting severall privileges to the Archbshoprick, which first began about the time of *Innocentius the 2.* whom others followed.

34. *Gregory the ninth* therefore moved by one of them

s Hoveden,
Ann. 1201.
fol. 465. a. 21

g Hoveden,
Ann. 1195.
fol. 430. b. 37.

*h Magna
charta apud
Mat. Paris
pag. 258, 53.
Lond. 1640.
i Mat. Paris
Ann. 1224.
pag. 323, 28.*

k. nulla Gre-
gor. ix. in an-
tiquo MS. dat.
Interamnæ
27. Iunii,
1236.

them (which seems to be St. Edmund) writes thus unto him : *Vt cum appellationis remedium non ad defensio-
nen malignantium, sed ad oppressorum subdium sit in-
venit, yet th' Archbishop attempting sometimes
excessus corrigere subditorum, quidam corum, ut correctio-
nem effugiant, appellations frustratorias interponunt,
quibus si cite pro reverentia sedis Apostolica humiliter
deferatur, illi ex impunitate deteriores effecti pejora pre-
sumunt, & alii eorum exemplo redduntur ad vitia pronic-
res; unde humiliter postulastis, &c.-- ut providere super
haec solita diligentia deberemus: ut igitur auctoritati tuae
in rectis dispositionibus nihil tali praetextu deesse contin-
gat, fraternitati tuae presentium auctoritate concedimus,*

* Frivola Ap-
pellatio qua-
dicitur, vide
Lindwood
cap. 2. verbo
frivole, de Ap-
pellationibus.
scil. que vana
& inanis--vel
quando nulla
causa est ex-
pressa, vel non
legitima, dato
quod sit vera,
vel licet sit le-
gitima, est ta-
men manifeste
falsa. Et vide
ibid. verbo
Pallietur.

∴ At Viterbo

4. Martii,

1235.

1 Col. 1665,

23.

* Sic MS.
sed legendum
tua.

∴ At Periu-
gium 6 Maii
1235.

35. . . And for that his Agents here in their citations of th' Archbishop did not use that respect unto him which was fit, but as Gervasius Dorobernensis observes of one of them,¹ *Legati privilegium plusquam deceret extenderet in immensum, suumque Archiepiscopum & Episcopos Anglie ut sibi occurrerent quolibet evocaret;* the same Pope did therefore declare, that, *cum nimis indecens videatur, ut per literas Apostolicas tacito tuo nomine dignitatis inter privatas personas stare judicio compellaris, nos fraternitatis tuae precibus inclinati, auctoritate tibi presentium indulgemus, ut per literas à sede Apostolica im-
petras quæde dignitate tua non fecerint mentionem re-
spondere minime teneris;* &c. Dat. Viterbii 4. Non.
Martii, Pontif. nono.

36. . . And because th' Archbishop had on many slight occasions been drawn beyond seas, to the great im-
poverishing th' Episcopacy, the same Pope two months after writes, *Ea propter, venerabilis in Christo frater, tuis supplicationibus inclinati, fraternitati tuae auctoritate presentium indulgemus, ut per literas Apostolicas extra Angliam.*

*Angliam invitus non valeas conveniri, nisi de indulgentia
hujusmodi ficerint eæ literæ mentionem, aut per te aliquod
factum fuerit per quod sit indulgentiæ huic derogatum.
Dat. Perusii 4. Non. Maii, Pontificat. nono.*

Innocentius 4. ut nullus sine speciali Apostolice sedis
licentia, præter Legatos ipsius ab ejus latere destinatos, in
personam tuam presumat excommunicationis sententiam
promulgare. Lugduni 13. Kalend. Octob. Pontif. 4.

37. It would be tedious to repeat all the bulls found
in the said old MS. and other books since 1130. (for
before it seems there was none in this kind) to conserve
some power in th' Archbischoprick, yet so as it might
ever depend on *Rome*; and how much the Papacy gained
by these, every man sees.

I. The right of th' Archbischoprick was, *none by ap-
peal might remove any Ecclesiastick cause from his judi-
catorie*: the Pope grants, *he shall proceed notwithstanding a frivolous Appeal.*

II. The right was, *he was not at all under any Legat*: See before
the grant is, *he should not be tyed to answer, if they did not* ^{".} 17. *mention his dignity in their citations.*

III. The right was, *he should not be drawn beyond the
seas* (of which in the next:) the grant is, *he should not
be compell'd to go, unlesse mention were made of that Bull.*

III. The question was, *whether the Pope might ex-* cap. 2. n. 17. *communicate any within the Diocese of Canterbury*: the
grant is, *None but a Legate de latere should th' Arch-
bishop.*

Yet certainly Popes did what they well could, retaining
to themselves that vast power they then pretended,
to conserve in the Archbischoprick some authority.

38. But the frequent citing him and others out of
the Realm, and the carrying their causes to *Rome*, did
not at all satisfy the subject; whereupon the body of the
Kingdome, ^m in their querulous letter devised and sent
by them to *Innocentius 4th. 1245*, (or rather to the

*11 Lions the
19 September*

In Note, this is omitted in the copy of this letter in Mat. Paris which is found in other MS. copies of the same, as in one my learned friend Mr. W^m. Dugdale helped me to the sight of, the Book it self belonging to Mr. Reper of Lincolns Inne, in which it is fol. 117, b, and ought to be in all; for in the *Gravamina Angliae* sent to the same Pope 1246. one is, *quod Anglici extra regnum in causis angloritate Apostolice trahuntur.* Mat. Paris pag. 699, 10. o Regist. 193, b. Cook, Institut. 3. pag. 179. p Parl. at Cambridge 12. Ric. 2. cap. 15. apud Henricum Knighton col. 2734, 40. 5. Ric. 2. cap. 2. q Hen. Knighton col. 2601, 44. * Henry Beaufort. r Rot. Parl. 10. Hen. 6. n. 16.

Council at Lions) claim as an especiall priviledge, That no Legat ought to come here, but on the Kings desire, *n & ne quis extra regnum trahatur in causam:* and at the revising of *Magna Charta* by Edward the first, the former clause was left out, since when none of the Clergy might go beyond seas but with the Kings leave, as the o writs in the Register, and the p Acts of Parliament assure us; and what is more, if any were in the Court of *Rome*, the King called them *q home*, not permitting any to go or abide there longer then his pleasure. Yet I do not say these times do not furnish examples of Appeals or recourse thither, or receiving commands from thence; I know the contrary: but it was only between those, and in such cases, as the King (holding good correspondence with the Pope) and State did either tacitely connive at, as in matters of small moment, or expressly give allowance unto: for if otherwise, no person was so great, but he was forced to gain his pardon for the offence. To which purpose the example of the * rich Bishop of *Winchester* may not be unfitly remembred, who being a Cardinal of the Kings blood, was employed by *Martyn* the s. as generall against the *Bohemians*, and to that end erected the *Crosse* 1429. 8. Hen. 6. but two years after caused a petition to be exhibited in Parliament, *r That he the said Cardinal nor none other should be pursued, vexed, impleaded, or grieved by the King, his heires or successors, nor by any other person, for cause of any Provision, or offence, or misprision done by the said Cardinal against any Statute of Provisions, or per cause of any exemption, receipt, acceptation, admission or execution of any Bulls Papall to him in any manner made:* Which was granted, and shewes that without it he had been lyable to punishment for his accepting and receiving of them. And here it is not unworthy the re-

membring

membring, that this was the first Cardinall *England* ever saw a Privy Councillor. He having sometimes sought that dignity in *Henry* the 5th time, upon the news, the Archbishop of *Cant.* gave the King notice of it, in a letter yet extant; which did so affect that Prince, as he was sometimes heard to say, * that he had as lieue set his crown beside him, as see him wear a Cardinals hat. But he being soon after taken away, and the honour conferr'd on this Prelate in June 1426. by *Martin* the 5. * at his coming into *England*, the Lords of his Maties Councell caused him to make a Protestation for his comportment in the future; and the 8th of *Hen.* the 6. it was agreed by the Lords in Parliament, he should be on the Kings part required to attend his Maties Counsells, sub protestatione tamen subsequente, quod quotiens aliqua, materia, cause, vel negotia ipsum Dominum Regem aut regna seu dominia sua ex parte una, ac sedem Apostolicam ex parte altera concernentia, hujus concilii regius communicanda & tractanda fuerint, idem Cardinalis se ab hujusmodi consilio absentet, & communicationi earundem causarum, materiarum, & negotiorum non interficit quovis modo, &c. and yet his former engagement made to the Councell to be firme and inviolable. Upon which the said Cardinall the 18. of December 8. H. 6. Ann. 1429. after his thanks to the King and Lords, and his admitting the said Protestations tanquam rationi consonas, was received for one of the Councell. But I return to that I was treating of.

39. The truth of this barring Appeals is so constantly averr'd by all the ancient monuments of this Nation, as one not finding how to deny it, falls upon another way, ^f that if the right of Appeals were abrogated, it concludes not the See of *Rome* had no jurisdiction over this Church, except one should be so senselesse as to imagine the Prefect of the Pretorian Court were not subject to th'Emperors authority, because it was not law-

*. *Halle* 20.
Hen. 6.
The complaint made by the Duke of *Gloucester* against the said Cardinall, Art. 2.
* *Rot. Parl.*
8. *Hen.* 6.
n. 17.

^f Philip See of Schism of England pag.

*ff. de officio
Praefest. I re-
tor. leg. unica.
Tide Cassio-
dor. lib. 6.
vers. 3.*

full to appeal from them, according to the Law in the Digests. To which I answer, that if it be granted (which is very disputable) this Law is to be extended to th' Emperor, yet it proceeded from himself, who might limit his own power: but he is desired to consider, this canon of Appeals did not from any Pope; for the *Africans* did, and the Church of *England* doth maintain it as an inherent right of their own, to give Laws in that particular, and ever had strong contests with the Papacy about it, which held it an honour not to be parted with; and they opposing him in it, must of necessity have held that superintendency he exercised over them not to be *jure divino*, for then no man could have exempted himself from having recourse unto him. In *France* there are severall Courts of Parliament from which no Appeal lies, who receiving that priviledge from the King, it cannot be said to be in diminution of his Royalty, because that they have, he gave: but if ever any of them should claim this as of their own right, denying the King to have at any time a power of intermeddling with them, I shall leave the objector to draw what consequence he will from it; for my part I can no other, but that they esteemed themselves very little his subjects.

40. The reader will pardon this digression, which I have the longer stood upon, to give him the more full satisfaction how Appeals were first brought in, and how pursued; I shall now, in what manner the Legat and Archbishop prosecuted theirs: who being "both before *Lucius* the 2. 1144. the Bishop of *Winchester* was ^x dismift his legatine commission; and the Pope finding with how great difficulty the Ecclesiastick affairs of this Kingdome could be managed by any Legat without the Archbishop of *Canterbury*, thought of a very subtle invention to conserve his own auctority, and not have any crossing with that Prelat, which was to create him and his successors *Legati nati*; by which, such things as

* Wm. Thorn
col. 1804, 44.
x Iohan. Ha-
gulstad. col.
273, 61. Ann.
1145.

as he did before, and had a face of enterfeering with the Papal plenitude, and were not so easy to devest th' Archbishop of exercising, he might be said to do by a Legatine power: of which it was not long before the Pope made use, as is to be seen in his *y Decretalls*; where *Alexander the 3.* resolves he could not hear *jure metropolitico* matters Episcopall that came not unto him *per appellationem*, (that is in a legall way) but *jure Legationis* he might such as were brought unto him onely *per querimoniam*: an invention ^z often practic't afterward, and highly advantagious to the Court of Rome, as what made Bishops but his Deputies.

y De Officio Legati cap. I.

^z Vide Eo-chell. *Decret. Eccles. Galli-can.* pag. 918. *Concil. Tri-ident. sess. 5. cap. 1. 2. & multius altius lo-cis.*

^a In Theo-baldo p. 115, 47. edit. 1572.
^b Seculo xii. p. 328, 15.
^c Ann. 1195. col. 679, 7.

^d Ger. Doro-bern. col. 1663, 64.
..The Bishop of Ely 1191. says Rich.

the 1. acqui-red him that honour. Ger. Dorobern.

col. 1563, 46. and the King himself ex-postulates in Hoveden with the Bishop of Hoftia, that it collt 1500. marks. Ho-

ved. Ann. 1190. col. 380. b. 14. So that the Court of Rome knew how to turn this, notwithstanding all opposition, to its no small advantage. ^e Eadmer. 62, 34. Malms. f. 137. a. 5. bury

41. The ^a *Antiquitates Britannicae Eccles.* and from him ^b *Harpsfield*, speak as if this honour were first bestowed on *Theobald*; which it seems to me could not be, till the taking it away from *Winchester* by *Lucius the 3.* after the death of *Innocentius 2.* ^c *Diceto* sayes, *Cælestinus 3.* (about some ten years after *Lucius*) bestowed on *Hubert* *plenitudinem potestatis in officio Legationis in-auditam à seculis.* I confess I do not well understand in what it did consist, that had not been formerly heard of, to whom the Pope had committed ^d *Vices suas in Anglia & Scotia*; but it fully proves that power derived from *Rome* was then looked on as a thing newly crept in. But whosoever did first confer it, the matter is not great: certain it is, by it the Papall auctority was not a little in time increas't, there being none of the Clergy almost to question ought came from *Rome*, the Archbishop, on whom the rest depended, himself operating but as a Delegate from thence.

42. To which purpose it may not unfitly be observed, that when the Papacy did first attempt the exempting some great monasteries from the jurisdiction of their Ordinary, it was ^e *salva primatis reverentia*, or, as *Malmes-*

^{ved.} Ann. 1190. col. 380. b. 14. So that the Court of Rome knew how to turn this, notwithstanding all opposition, to its no small advantage. ^f Eadmer. 62, 34. Malms. f. 137. a. 5. bury

bury explains it, *Archiepiscopi tantum nutum in legitimis spectaturus*. But however thus carefully penned not to thwart with th' Archbishop, being brought hither was taken away by *Lanfrank*, not permitted to be made use of, the Abbot finding no other way to regain it but *s multorum preces*. Yet afterward the Pope without scruple exempted them not onely from their Diocesan, but even such as were under th' Archbishops nose, with all pertaining to them, were taken out of his own jurisdiction; and he who at first preserved others rights, had those houses now at an *g* easy rate removed from his own. A fact of infinite advantage to the Papacy, by which it had persons of learning in all parts, who depending wholly on it, defended what was done to be by one had a power of doing it; and he who at first did solely *h agere vices Apostolicas in Anglia*, was *i* under no Legat, permitted no Bul from *Rome* to be made use of in *England*, but by his approbation, was so far now from taking them away from the bearers, as *k* private Clerks by deputation from thence did sit his superiors in determining differences between him, and others who by strength were taken from his jurisdiction.

43. After which, Popes having gained an entrance, found means to reduce the grant of *Legatus natus* to no more then stood with their own liking, by inventing a new sort of Legat styled *Legatus à latere* (^lby reason of his near dependance on the Popes person) who employed in matters of concernment, at his being here the power of the former slept :^m which distinction of Legats seems to me to have had its birth after 1180. first applyed by any of our writers to ⁿ *Iohannes Anagninus Cardinalis* 1189. by *Hoveden*; which style yet ^o others who then lived do not give him. Of this Legat it is that *P Henry Chichley* in a letter, yet extant under his own hand, wrote to *Henry the 5.* that *Be inspection of Lawes*

f Eadmer.
ibid. lin. 57.

g Vide Petri Elefensi. Epist. 68.

h Eadmer.
pag. 58, 44.
i G. Dorob.
col. 1663, 55.

k Vide bul.
Iohan. 22.
apud Gu-
lielm. Thorn,
col. 2041, 1.

l De Officio Legati cap. 9.
Gloss. ad verbum Commissam.
m Vide Ger.
Dorobern.
Ann. 1183.
col. 1532, 55.
o 1533, 8.
n Hoveden.
Ann. 1189.
fol. 377. a. 10.
o Diceto col.
649, 42.
Ger. Dorob. p *Habetur in via Henrici Chichley ab Arthuro Duck edita. 1617.*

and *Chronicles* was there never no Legat à latere sent in to no lond, and specially in to your rengme of Yngland, witoute great and notable cause. And ther whan thei came, after thei had done her legacie abiden but litul wyle, not over a yer, and summe a quarter or ij. monthes as the nedes requeryd: And yet over that he w. is tretyd with or he cam into the lond, whon he schold have exercise of his power and how myche schold bee put in execution: An aventure after hee had bee reseyved hee w. hold have used it to largely to greet oppression of your peple: as indeed if he stayed long, he sometimes gained the censure of being *occultus inimicus regni*; but this was not till the Popes had brought th' Archbishops much under, by laying a necessity on them of receiving the Pall from *Rome*, and at the taking of it of making profession *de fidelitate & canonica obedientia*, that is, had obliged them by Oath to defend *regalia Sancti Petri*. Of which, because I find th' introducing (not much touched by our writers) a great means to advance this forraign power, it will not be amisse to say somewhat; and first of the Pall.

*q M. Paris
Ann. 1240.
pag. 524.43.*

44. The *Pallium* (from whence our English word *Pall*) was a garment with which the Professors of Arts, as *Grammar*, *Rhetorick*, *Musick*, might cloath themselves (as it seems to me by ^t *Tertullian* they did); yet was held most proper for such as professed Philosophy: And therefore when a ^r begging fellow came to a noble *Roman palliatus & crinitus*, being asked what he was, the man half angry replyed he was a Philosopher, & mirari cur querendum putasset quod videret: to which the Gentleman returned, *Barbam & Pallium, Philosophum nondum video*. From whence I gather, it was for the most peculiar to them. So ^t *Eusebius* shewes on *Heracles*, *euioπωδειαρρηγη* taking the habit of a Philosopher, notwithstanding his being a Christian, retained it: and *lib. 8. cap. 21.* at the martyrdom of *Porphyrius* a disciple of *Pamphilus*, he describes that *euioπωδειαρρηγη* to be a short

*r De Pallio
cap. 6.*

*t Aul. Gellius
Noft. Attic.
lib. 9. cap. 2.*

*t Euseb. His.
lib. 6. cap. 13.
Grec. k.*

a short cloak or Pall covering the shoulders.

45. But it seems the primitive Christians in wearing of it did attribute some Sanctity to the garment; for

^a Tertul. de Pallio cap. 6.

^x concil. Gangrense circa Ann. 350.

^x Councell of Gangra, not an 100. years after, pronounced him *Anathema* used the *Pallium quasi per hoc habere se justitiam credens*, &c.

Now from the danger of superstition of the one side, and the being especially worne by Philosophers of the other, I am apt to think it became in the end proper onely to some Bishops, who might challenge it as learned Philosophers, yet not at all likely to attribute more to the Robe then reasonable; and in time, either by collation of Emperors, or otherwise, appropriated to some particular Churches, who having that mark, were after the seats of Archbishops for the most part. For though y Alcuinus be of opinion

^y Pallium nihil aliud est nisi discrecio inter Archiepiscopum & ejus suffraganeos. Alcuinus de Divinis Officiis cap. quid significant vestimenta.

^z Gregor. lib. 12. Epist. 15.

^e Greg. lib. 7. Epist. 112.

the Pall is nothing but a distinction between an Archbishop and his suffraganes: yet, under favour, I conceive that must be taken of th' acceptation of the word in the time he lived; not as used in St. Gregories dayes, who gives ^z Augustine at the bestowing the Pall upon him the title of Archbishop no more then he doth ^a Syagrius Bishop of Austun in Burgundy; which Town, notwithstanding that guist by St. Gregory, was never reputed to have other then an Episcopall chair, and suffragan to the Archbishop of Lions to this day. So that certainly, at first, all that had the Pall were not *eo nomine* Archbishops, to whom it became especially proper after the Emperor relinquish't it to the Popes disposing, who at first no question had a good part in the conferring of it himself.

^b Hieron. Rubeus Hist. Ravenne. Italia Sacra, to. 2. col. 331. &c 332.

46. The deed is yet extant by which Valentinian bestowed it on the Church of Ravenna, about the year 430. I know ^b some, who find not how to deny it, hold this an honourable vestment, such as Emperors themselves

selves wore; which opinion ^c *Baronius* justly confutes, ^{c. 10. 5. Ann.}
 and rather thinks it forged: yet he, ^d citing out of ^e *Li-*
beratus, that *Anthemius* expell'd the Church of Con-^{432. n. 93.}
stantinople, *Pallium quod habuit, imperatoribus redditum,* ^f *Baron. 10. 7.*
& discessit, gives no glosse how he could return to the ^{Ann. 536.}
 Emperor his Pall and depart, if he had nothing to do ^{n. 17.}
 with it: and it is manifest, in *Gregory* the greats dayes, ^{c Erevic. Li-}
 that Church did not onely prescribe for the use of the ^{berat. cap. 21.}
 Pall, but for doing it contrary to the will and opinion of ^{to. 2. concil.}
 that Father. And the same Doctor elsewhere ^f saith, he
 had dealt *apud piissimos dominos*, the Emperors, to send ^{f Lib. I. Epist.}
 him *Anastasius, concessu usu Pallii*: and afterward being ^{27.}
 desired by *Brunichilda* to grant it to *Syagrius*, (of whom ^{g Greg. lib. 6.}
 before) he shews his readinesse, & propter quod & sere-
nissimi Domini Imperatoris prona voluntas est, & concedi ^{Epist. 5. In-}
haec omnino desiderat. So that certainly, at the beginning, ^{dic. 1.}
 if Princes did not bestow it, yet it was not done against ^{*} *Diceto*
 their wills; which after-times did in *Europe* solely appro-^{Ann. 1142.}
 priate to the Pope: who yet gave it not against their li-^{col. 508.}
 king; as * *Lucius* the 2. sending it to the Bishop of *Win-*
chester, who yet never made use of it, teacheth us.

47. But what this Pall imported, or what the re-
 ceiver had of advantage by it, writers I think do not al-
 wayes agree. ^h *Isidorus Pelusiota*, who writ about the ^{h Lib. I. E-}
 year 430, is of opinion, the Bishop, as a type of *Christ*, ^{Epist. 136. apud}
 wears that cloak of wool, to shew himself imitator of ^{Baron. 10. 2.}
 the great shepheard that will bear the strayed sheep on ^{Ann. 216.}
 his shoulders. ⁱ St. *Gregory* sayes, it signifies humility, ^{n. 15. &c. 10. 7.}
 justice, &c. I have shew'd before *Alcuinus* his opinion of ^{Ann. 553. n. 7.}
 it. But what soever signification it was at first thought to ^{i Lib. 7. Epist.}
 carry, certainly, the necessity of fetching it from *Rome* ^{129. Indic. 2.}
 was not so urgent, as in these later the Papall interest
 made it esteemed. We do not read that ever *Lauren-*
tius or *Mellitus* received thence the Pall; yet no man ^{k Itin. Cambr.}
 doubts of their being as lawfull Archbishops as *Augu-*
stine was. ^{lib. 2. cap. 1.} *Giraldus Cambrensis* and *Hoveden* agree, the ^{b.}
Hoved. Ann. 1199. fol. 453.

Bishops of St. Davids in Wales did use the Pall, till *Samson*, about the time of the *Saxons*, flying from an infection, carried it with him; yet neither of them report him to have fetcht it from *Rome*: nor after the wanting it, did the rest of the Bishops there either refuse his consecration, deny obedience to the See, or make profession to any other, before *Henry the first* induced them by force. But to come to the *Saxons*: after *Paulinus*, there are five in the Catalogue of *York* expressely ¹ said to have wanted it, (amongst which *Wilfred*, that ^m ruled all the North as his Bishoprick) yet are reputed both Archbishops and Saints; and of others in that series it will not be easy to prove they ever used it. *Albertus* the s. Bishop about 767. had it not till the seventh year ⁿ accepti *Episcopatus*: nor ^o *Adilbaldus* or *Ethelbaldus* the 14. Anno 895. till the fourth year postquam acceperat *Episcopatum*. An undoubted argument that Canon of *Pelagius*, recorded both by *P Ivo* and *q Gratian*, that no Metropolitan should defer above three months sending for it to *Rome*, was never received in this Church. ^p *Gregory the great* sayes, it ought not to be given, nisi fortiter postulanti: and the same ^q Father with a Councell at *Rome* Anno 595. decreed, pro pallio omnino aliquid dare prohibeo. So that in those times the one side perhaps did not much urge the taking of it, nor the other greatly seek after a thing brought small advantage, and was so far to be fetcht.

^r *Florent.*
Wigorn. pag.
395. &c In-
gulph. fol.
508. a. 53.
Malms. f.41.
b. 39.
^s *Graviter*
mutuatam,
Eadmer. pag.
98, 30.
^t *Mat. Paris*
pag. 274, 4.

48. But after the Court of *Rome* began to raise to itself a revenue from other Churches, this *Pallium*, that was no other then a distinctive ornament, not to be payed for, began to be set at so immense a rate, that ^t *Canutus* going to *Rome* 1031. did mediate with *John* the 19. that it might be more easy to his prelats: in which though he had a favourable answer, yet in *Hen. the 1.* his time it was so much, th' Archbishop of *York* could not pay the money, without an ^u heavy debt. ^x *Mat. Paris* doth

doth intimate as if *Walter Gray*, translated from *Worcester* to that See 1215, had not his Pall at lesse then ten thousand pounds: *accepto pallio* (saith he) *Episcopus memoratus reddit in Angliam, obligatus in curia Romana de decem millibus librarum eſtirlingorum*; which was about the silver of 30000^{l.} now, Coin being then after the rate of 20^{d.} the ounce. But after times, according to the Bishop ^y of *Landaffe*, reduced it to the certainty, that each Bishop payed 5000. duckets for it, every one of the value of 4^{s.} 6^{d.} our money: which yet I do not see how to make agree with the ^z *Antiquit. Brit. Ecclesiae*, that speaks onely of 900. *aureos ducatos* payed by *Cranmer*.

49. But to omit the gain came by the garment; that certainly was a means of drawing a great obligation from all Archbishops to the Papacy: for about 1002. a new oath *de fidelitate & canonica obedientia* was devised, to be tender'd every Archbishop at the reception of it. For the more full understanding of which, we are to know, *William the first*, after he had settled the Kingdome in quiet, wholy posseſt of it, would not in any kind acknowledge a farther obedience to *Rome* then his predecessors had; but maintained the rights of the Kingdome in every thing, against the liking of that Court in many particulars, barring all men for taking any for Pope, but whom he designed; insomuch as after ^a *Gregory the 7.* 1084. till 1095. about 11. years, there was no Pope acknowledged in *England*; denying any to receive letters from thence, but acquainting him with them, and many more; of which elsewhere: all which being exercised by him, were never questioned during his time, nor while *Lanfrank* lived after him, (though he hath been ever reputed an holy man.) But *Anſelme* succeeding in his seat, great contentions arose between him and *William the second*: The King with the Nobility pressing him, as the usage of the Realme,

^y In Catalog.
Episc. in fine
Archiepisc.
tan Cant.
quam Ebor.
^z Antiq. Tri-
ton. Lond.
pag 382. 32.
Hannoviae
pag 327, 48..

^a Vide Baron,
to. II. Ann.
1071. n. 21,
25. & inter
Lanfranci
Epift. 7. pag.
304. -

^b Eadmer.
pag. 25, 40.
Vide Lanfran-
ci Epift. 59.
pag. 329. col.
1. §. Non
lando.

^c Eadmer.
pag. 38. p. 32.
per tot.

not to depend on *Rome* as of necessity: he, on the other side, ^d declaring all such customes to be contrary to Divinity, right, &c. chose rather to live an exile all that Kings time, then any way submit to those customes, had been practis't, never disputed or questioned by any Archbishop here before.

^e Lanfranc.
Epist. 8. pag.
305. col. 1.

^f col. 663, 6.

* Note, where you read in the lives of the Abbots p. 140, 22. regalem, and in his Hist. p. 414, 22. regalis, both should be regalia, for so we find it at the end of the Councell of Vienna, 10.4. concil. gen. Rome 1608. & 1612. agreeing with an old Copy of that oath I

50. But, that Prince being soon after taken away, and *Paschalis* the 2. succeeding almost at the same time, (considering, as it seems, by what weak bands forraign Bishops were tyed to the Papacy, how easy it was forthem to fall from it; that ^e *Gregory* the 7th. was not satisfied even with *Lanfranks* carriage in *Episcopali honore positus*, who restrained his obedience to *canonum precepta*; that *Anselme* alone had opposed the whole body of the Kingdome; that every Prelat might be neither of his temper or opinions,) framed an oath,

the effect of which you may see in *Diceto* ^f Ann. 1191. & in *Mat. Paris* and others, the * full which every Archbishop at the reception of the Pall was to render. At the tending this, one in *Sicily* made a scruple of taking it, as that *Nec ab Apostolis post Dominum, nec in conciliis inveniri posse statutum*; the like did someg in *Polonia*: to whom the Pope answers, as in cap. ^h *significasti, objurgatorily, quasi Romane Ecclesie legem conciliaulla pre-fixerint.* And going on with the designe, whereas at the assuming of this Pall by *Anselme* 1095. it was no otherwise then thus, ⁱ *Pallium super altare delatum ab Anselmo assumptum est, atque ab omnibus pro reverentia Sancti Petri suppliciter deosculatum, &c.* at the taking of it by *Raulf* 1115. his immediate successor, we find it with this addition, ^k *Sicque delatum super Altare salvatoris pallium est, & à Pontifice inde suscepit, facta have seen in th' Exchequer, which the Decretalls de jure jurando cap. 4. read thus: Patrum Romane Ecclesie & regulas Sanctorum Patrum adjutor ero, &c. but Ordericus Raynaldus 10. 13. Ann. 1233. n. 65. citing out of the records in the Vatican the oath St. Edmund Archbishop of Canterbury took, reads it rightly regalia. g Baron. 10. 12. Ann. 1102. n. 6, 7, 8. h De electione & elecli potestate cap. 4. i Eadmer. p. 34, 33. k Eadmer. p. 113, 43.*

prius

prius de fidelitate & canonica obedientia professione.
Deinde pro reverentia beati Petri ab omnibus deosculatur, &c. Which profession being never met with as made by any Archbishop of *Cant.* before, but frequently after by such as were his near successors, as ^l *Tho. Beckes, Baldwin,* &c. we must conclude him to have been the first from whom it hath ever been required. I know. ^l *Bellarmino* interprets a Bishops returning out of schism 602. and voluntarily by oath promising to live in communion with the Pope, to be a swearing of obedience to that chair: but certain there is a difference between obeying and living in communion; (of which see *cap. 7. n. 4.*) between an oath inforced, and one voluntarily taken. After this, as wayes to augment the Court, many priviledges were annexed to it; ^m as that none before his receiving that ornament might *convocate coun-cells, make Christme, dedicate Churches, ordain Clerks, consecrate Bishops,* that being ⁿ *Pontificalis officii plenitudo*, till he had it, none to be styled an Archbishop; things added after mens holding a necessity of seeking it, did so much contribute to the Papall advantage, both in point of honour and profit. For it is manifest, *Lanfrank, Anselme* and *Raulf* did dedicate ^o *Churches, P consecrate Bishops and Abbots,* were called ^q *Arch-bishops*, whilst they wanted it.

^{s. i.} Now the ice broken, this Oath (at first required only of Archbishops when they took the Pall) was by ^r *Gregory the 9, mutatis mutandis*, imposed on Abbots and Bishops. About 1235. came into *England* ^f *occulta clausa sub bulla*, the ^t like to which had not been seen, was profered to *John 23. Abbot of St. Albans* unacquainted with it, when he could not ^u *ab illa obligatione resiliere*; who is therefore noted, that ^x *primo invititus & dolens Romanorum jugum subiit servitutis*, and that ^y *præ omnibus Romanorum oppressionibus novis & inauditis cœ-*

^l *Diceto cit: 534, 8. Ger. Dorobet. col. 1307. 2.*
^z *De Rom. Pont. lib. 3. cap. 11. §. Iu-ramentum.*

^m *De Elect. & Elect. potest. cap. 28. §. 2. verbo præ-te-reca.*
ⁿ *De auctor. & usu Pallii. cap. 3. Vid. concil. Late-ranense sub In-nocentio 3º. cap. 3.*
^o *Eadmer. pag. 22, 19.*
^p *Ibid. pag. 6, 46. pag. 23, 31.*
^q *pag. 111, 6, 18, 32.*
^r *Ibid. pag. 23, 42. p. 111, 32. & passim apud Histori-cos.*

^s *De jureju-rando cap. 4.*
^f *Mat. Paris Vit. Abbat. pag. 140, 31.*
^t *Mat. Paris Hist. major. pag. 142, 1.*

^g *pag. 410, 39. u Vit. Abbat. pag. 140, 39. x Ibid. pag. 141, 49. y Ibid. pag. 142, 1.*

pit molestari, &c. The thing I find of greatest exception is, the obligation injoyning them to visit *Rome*, which being in pursuance of the 26. chapter of the Councell of *Lateran*, held onely 20. years before, is censured
 ¶ Mat. Par.
 Vit. Abbat.
 pag. 133, 23.
 pag. 141, 52,
 56.

¶ *Dannum, gravamen, prajudicium, injuria, jactura*, as that which alter'd the nature of the Church, which had been from the foundation *libera & ingenua*, and was thus brought to serve the ends of the Court of *Rome*.

Truly after this I cannot see how there can be said to have been a free Papall Councell in *Europe*, when such as it consists of (being, for the most, Bishops and Abbots) come with so high an obligation as an oath to defend the usages of *Rome*, under the title of *Regalia Sancti Petri*. In pursuance of which the ∵ Councell of *Trent* did expressly charge all Patriarchs, Arch-bishops, Bishops, and other, who in future should meet in Provinciall Synods, that *veram obedientiam summo Romano Pontifici spondeant, & profiteantur*. I wish it had exprest what that had been.

52. To return to that I was treating of. This visiting the *Roman Court*, however much prest on this Monastery of St. *Albans*, yet was ever excused till 1290. *Iohn* the 3. and 25. Abbot was forced to go thither for his confirmation: but because the book is not printed, I will give you my^a Auctors own words. *Iohannes de Berkamsted, vir religiosus & honestæ conversationis, Hic in crastino conceptionis beatæ & gloriose virginis Mariæ, scilicet quinto idus Decembris, anno Domini MCC. nonagesimo, per viam compromissi de gremio Ecclesie concorditer electus, ad curiam Romanam primus omnium abbatum hujus Ecclesie, pro confirmatione electionis sue obtinenda, personaliter accessit, ibique confirmatus est à summo Pontifice Nicholao; & à venerabili L. Ostiensi Episcopo & Cardinali apud urbem veterem munus accepit benedictionis; & sic data maxima pecunia Papa, & Cardinalibus, & aliis de curia, quam de mercatoribus Papa duris*

a *Vita Abbat.*
St. Albani
MS. in Io-
haune 3. Ab-
bate 25.

duris conditionibus ex mutuo recepit, ab illa insatiabili curia iwasit, expletisque negotiis domum redire festinavit, &c. By which we may see who of this house went on this occasion first thither, and why it was so earnestly urged from thence. As for the Monastery of St. Augustins, by reason of the often contentions with th' Archbishop, the Monks there were much more prone to yield obedience to *Rome* (who maintained them for the most against him) then these other were: yet the first of them I find to have ^b took this oath was Roger the 2. elected Abbot 1253. For though the ^c benediction of Robertus de Bello 1224. were at *Rome*, where he gained th' Abbacy; yet there being no mention of any oath presented to him then, we must think it came in afterwards. But for the fuller understanding how this visiting the *Roman Church* came in, the Reader will give me leave a little to digresse.

53. Christians in all ages have esteemed it a point of singular piety and devotion, for any Ghostly Father or Doctor to have a care of those to whom they have the relation of being a Spirituall Superior, either by planting Christian Religion amongst them, reducing them out of error, or otherwise some engagement on them. Saint Paul sent for the Elders of *Ephesus* to come unto him at *Miletus*, from whom they received those wholesome instructions we read in the ^d Acts of the Apostles; and according to this example there are divers exhortations in the writings and Epistles of the Fathers. Before the year 517. a ^e Councell held at *Tarragona* in *Spain* did ordain, that every Bishop, impletis duobus mensibus, se Metropolitani sui representet aspectibus, ut ab illo monitis Ecclesiasticis instructus, plenius quid observare debeat recognoscat: quod si forte hoc implere neglexerit, in Synodo increpatus à fratribus corrigatur. Agreeing to which, ^f *Justinian* in the year 541. did establish by Law, that for the better observance of th' Ecclesiastick

^b Wm^s
Thorn, col.
1899, 22.
^c Ibid. col.
1880, 3.

^d Act. xx.
17, to the end.

^e Cap. s. toni. 1.
Concil.

^f Nov. 123.
cap. 10.

Baron. 10.9.
Ann. 743.
n. 19.

* capit. Car.
& c. lib. vii.
cap. 108, 109.

¶ Concil.
Spelm. pag.
237, 238.

clesiastick rules , every *Archbishop* , *Patriarch* , and *Metropolitan* , *Sanctissimos Episcopos sub se constitutos in eadem Provincia semel aut secundo per singulos annos ad se convocare*. And Pope *S Zachary Ann. 743.* in a Councell at *Rome* , *Omnes Episcopi qui hujus Apostolicæ sedis ordinationi subjacebunt, qui propinquisi sunt, annue idibus mensis Maii sanctorum Principis Apostolorum Petri & Pauli liminibus presententur, omni occasione seposita, &c.* * After which *Charls the Great did by law ordain, ut unusquisque presbyter per singulos annos Episcopo suo rationem ministerii sui reddat, tam de fide Catholica, quam de Baptismo, atque de omni ordine ministerii sui.*

54. About which time *Boniface* an Englishman , the Popes Legat in *Germany* , and *Archbishop of MENTZ* , in a Councell held in *Germany* (the decrees whereof he sent to *Cutbert* then in the seat of *Canterbury*)^h declaring how great the care of the *Metropolitan* ought to be of those under him , shews how every Presbyter should once a year in Lent give an account to his Bishop , who was to instruct him , and with such things as he could not correct himself, to acquaint th' *Archbishop* in a Synod; *Vt si Sacerdotes vel plebes à lege dei deviassent vide-rim, & corrigere non potuerim, fideliter semper sedi Apostolicae & vicario Sancti Petri ad emendandum indicaverim: Sic enim, ni fallor, omnes Episcopi debent Metropolitano, & ipse Romano Pontifici, si quid de corrigendis populis apud eos impossibile est, notum facere, & sic alieni fient à sanguine animarum perditarum. Cutbert*, according to this advise, doth appoint the proceedings of the Bishop to be to the *Archbishop* , in the same words he had received it from *Boniface*; but i passeth no farther to the Pope : an undoubted argument , it was not then usuall in *England*. I have touched before, the Conqueror did suffer no other correspondency with *Rome* then what he liked; *Paschalis* the 2. quarrell'd with *Hen. thek* first, that *Nullus inde clamor*: to prevent which, this

i confer Concil. Spelm. p. 238, §. ut Episcopi, &c. p. 251, cap. 25.

k Eadmer.
pag. 113, 2.

this visiting *Rome* was at the very first inserted into the oath of an Archbishop, who being head of the Province, all the rest might have the same dependance.

55. But because this did not reach such houses and persons as were exempt from the jurisdiction of th' Ordinary, acknowledging no superior but the Pope; the Councell of *Lateran* under *Innocentius 3. 1215.*¹ provided, such as pertained immediately to his rule should present themselves before him for confirmation, *si com-mode potest fieri*; which was here disliked. But this Councell speaking not home, in that it tolerated the sending ^m *personas idoneas, per quas diligens inquisitio super electionis processu & electis possit haberi, &c.* to make th' excuse, (and being it self (as I shall shew hereafter) not much regarded till *Gregory the 9.*, nephew to *Innocentius*, inserted it for the most into the Decretalls, and framed, as I have said, an oath too, for the stricter obligation unto him;) it was again urged by *Alexander the 4. n* *ut quilibet qui in Abbatem exemptum extunc eligeretur, Romanam curiam adiret confirmandus & benedicendus*: which the same author styles *Statutum enorme and cruentissimum*. And whereas some, finding the burthen of running to *Rome*, had obtained as a privilege from thence, *ut non teneantur sedem Apostolicam usque ad certa tempora visitare, contra formam praestiti juramenti, ex quo illud evenit inconveniens, quod Apostolice sedis dignitas rarius visitatur, in derogationem reverentiae quae ab omnibus debetur eidem, &c.* the same Pope therefore revokes all manner of such concessions to whomsoever formerly granted. In which year, or perhaps 1258, *Simon* (elected Abbot of *St. Edmundsbury*) confirmed by *Alexander the 4.* the 22 October, is noted to have been *primus exemptorum in Anglia ad curiam Romanam pro sua confirmatione vocatus*.

56. Yet the Court of *Rome*, however thus earnest at first, (either perceiving it ill relish abroad, and that

¹ tom 4. Concil. gen. Rom.

^m cap. 26.
Concil. La-
teran.

n Mat. Paris
Ann. 1257.
pag. 951. 41,
4+.
o pag. 956, 7.

p Reynald.
Annal. Eccles.
to. 14. Ann.
1257. n. 50.

* Monasticon
Anglicanum
pag 296. col. 1.

forcing sodain mutations in Religion not to be of so good consequence) in her prosecution was more moderate. ¶ On *Roger* the xxiiii Abbot of *St. Albons* 1263. I do not find at all prest; his successor *John* the xxv, I have shew'd, was the first went thither for it. So likewise ¶ *Philip* Abbot of *Westminster* 1258. obtained the favour to stay at home, and *Richard Ware* his successor fetcht his consecration first thence. But after the Court was fully in possession of what turned so much to her advantage, an excuse was hardlier admitted; and if any did obtain the favour to stay at home, he payed a good round summe for it. It is remembred, *Michael* Abbot of *St. Augustins*, elected 1375, did give *Papæ & Cardinalibus ut possit benedici in Anglia* 183^l - 02^s - 06^d. and accordingly some other. The Papacy having by these wayes abated the power of th' Archbishop, found it easy, his lett removed, to bring the rest of the Clergy wholy to depend upon it, by raising whom it liked to oppose that Prelat, who were bound to maintain the Papall auctority which supported them in what they did, and wringing the Investitures (so far as lay in their power) out of the hands of Princes, to interest the Pope and his party in severall particulars, under the notion of being matters Ecclesiastical; by which he brought the elections of Bishops solely to the Convent, excluding both King and others, and became as Patron of most Spirituall promotions in *England*: which forme he yet laboured in the end to break too, by reducing all to his own gift. For the understanding of which, as not impertinent to that I treat of, it will be necessary to look a little higher.

57. When any place became destitute of a Bishop, it is certain, in the primitive Church, the Lay as well as the Clergy did concur in nominating who were to succeed in the charge; that he who was to have th' inspection of all, might not be brought into it with the repug-

Vita Abbat.
MS.

r Mat. Paris
pag. 972, 51.

f Wm Thorn,
col. 2185. &
sequent. col.
2153, 46.

t Card. Offat.
Epist. 295.
Rom. 22 De-
cembr. 1601.

repugnancy of any. And this custome was so generall, as^a St. Cyprian and 36. Bishops more, meeting in Coun-
cell about the year 255. writing to certain in *Spain*,
spake as if it did descend *de divina auctoritate*. It is not to
be doubted but this course gave sometime opportunity
to ambitious and contentious spirits (as ^x St. *Augustine*
calls them) of troubling the Churches peace: and there-
fore y the Councell of *Laodicea* before the year 360.
did appoint the elections to Priesthood not to be^b by
multitudes; and divers holy Bishops desiring peace
might continue after them in their flock, were carefull
or ever they dyed to know the person was to succeed
in their chair. *Severus Bishop of Melia in Africa* had
exprest to the Clergy onely, whom he thought fit to
have been admitted after him to his Episcopacy. This
was likely to have bred some stir, in respect the people
were not acquainted with it; had not ^z St. *Augustine*
by his pains and wisdome allayed the dispute: to avoid
which, that good man nominated one *Eradius* for his
successor, whom the people with loud acclamations ap-
proved.

^u Cypr. Epist.
^{68.} n. 4. edit.
Pamelia.

^x Epist. 110.

^y Cap. 13.

^{*} turbis. ^o
apud Gratia-
num, Dist. 63.
cap. 6.

^{*} Milevis.

^z August.
Epist. 110.

^a Leo Epist.
89, cap. 5.

^b Caroli Mag-
gni capit. lib.
1. cap. 84.

^c Lib. 2. Epist.
26. Ind. 10.

^d Epist. 22, 26.
Ind. 11. ^o
alibi.

^e Vide conti-
nuat. Flor.

Wigorn.
Ann. 1128.

p. 506. Ann.

58. This concurrence or joyning of the Lay with
the Clergy (that *qui præfuturus est omnibus ab omnibus
eligatur*, as^a *Leo* speaks) in choice of Bishops, I do no
way question to have continued in the Church till af-
ter *Charles the Great*, in whose Capitulars we find,
^b *Episcopi per electionem cleri & populi eligantur*; and to
have been sent hither by *Gregory the Great*, who in ^c his
Epistles makes often mention of it, as we do find ^d steps
of it in our own Historians. Yet certainly, however
there might be some formalities of the people, the
chief of elections here ever depended on the Prince; as
may be gathered by that Speech of *Wolstan* to the Con-
fessors tombe, ^e that he had compell'd him to take the
pastorall stasse. And *Edward the 3.* wrote to *Clement*

1139. pag. 532. ^e Ailred de miraculis Edw.ardij, col. 406. 37.

f Epist. Ed.
wardi 3. apud
Walsingh.
pag. 151. 42.
Ann. 1343.

the 6. ^s Cathedrales ---- Ecclesiæ progenitores nostri dum singulis vacationibns earundem personis idoneis jure suo regio libere conferabant, & postmodum, ad rogatum & ad instantiam dictæ sedis, sub certis modis & conditionibus concesserunt, quod electiones fierent in dictis Ecclesiis per capitula earundem, &c. So likewise in the Parliament the 50. Ed. 3. the Commons shew, the King and great men were formerly in peaceable possession of giving preferments in holy Churche. But I will give the words themselves, because I will not erre in the Translation.

g Rot. Parl.
50. Ed. 3.
n. 94.

g Le Roy & les grandes -- feurent en peisible possession de doner les Evesches & les benefices de seint Esglise, come le fest le Roy St. Edward, qe dona l'Evesche de Worcester a seint Wolston; & puis par devotion des Roys fust, & par la Courte de Rome conferme, qe les Cathedralx Esglises averoient frank election de leur Prelatz, solonc la ley de Dieu & de seint Esglise, ent ordeigne perpetuellement a durer, &c. and a little h after, Les Roys d'Engleterre soleient doner Eveschez & autres grantz dignites tres-touz, come il fait aujourdui Esglises parochiels, & le Pape ne se medlast de doner nul benefice deinz le Royalme i rangez deinz brieftemps passé , &c.

59. And this to have been likewise the custome in France, the complaint of the French Ambassador to Innocentius 4^{tus} assures us. i Non est multum temporis (faith he) quod Reges Francorum conferebant omnes Episcopatus in camera sua, &c. and our writers do wholy look upon the placing Lanfrank in Canterbury as ^k the Kings act, though it were not ^l without th' advise of Alexander the 2. Neither did ^m Anselme ever make scruple of refusing the Archbischoprick, because he was not chosen by the Monks of Canterbury: and in that letter of them to Paschalis the 2. 1114. though they

j Additament.
Mat. Paris
MS. in Biblio-
sphæra Cotton.
fol. 135, a.
cui initium
Dicturus,
&c. of which
hereafter.

k A williel-
mo Lanfran-
cus electus est.
Malms. fol.
116, b. 38.

Rex constituit
Lanfrancum Archiepiscopum Cant. Florent. Wigor p.436. Ann. 1070. Sim. Dunelm. col. 202,
c. l Eadmer. p.6, 41. m Vide ibid. p.16, 48. p.17, 18.

à nobis

& nobis & clero & populo; yet whosoever will note the series of that election, cannot see it to have been other then the Kings act; insomuch as our writers use often no other phrase then the King gave such preferments, &c. And whilst things stood thus, there was never any interposing from *Rome*, no question who was lawfully chosen: the Popes therefore did labour to draw this from the Princes meddling with, as much as was possible. Some essay might be 1108. at the settling Investitures, for then *Anselme P* writ to *Paschalis*, *Rex ipse in personis eligendis nullatenus propria uititur voluntate, sed religiosorum se penitus committit consilio.* But this, as the practice proved afterwards, was no more but that he would take the advise of his Bishops, or other of the Clergy: for, as *Diceto* well observes, our King did in such sort follow the Ecclesiastick Canons, as they had a care to conserve their own rights. The fitteſt way therefore for the Pope to get in was, if there should happen any diſſenſions amongſt themſelves, that he, as a moderator, a judge, or an Arbitrator, might ſtep in.

60. About the Conqueſt, an opportunity was offer'd on the contentions between the two Archbifhops for primacy; in which *Canterbury* stood on^t the bulls (true or false) of former Popes, that had as a great Patriarch made honourable mention of them. When they were both 1071. ^swith *Alexander* the 2. by his advise it was referr'd to a determination in *England*; and accordingly 1072. W^m. the firſt with his Bifhops made ſome ſettlement, which by them of *York* was ever ſlumblēd at, pre-tending the King^t out of reaſon of State ſided with *Can-terbury*. But this brake into no publick confeſt till 1116. *Thurstan* elected to *York*, "endeavoured at *Rome* to di-vert the making any profeſſion of ſubjeſtion to *Cant.* but failing in th' attempt (that Court not liking to fall into a confeſt it was not probable to carry) resigned his Archbiſhoprick, *Spondens Regi & Archiepiscopo, ſe dum viveret*

ⁿ Ibid. p. 109,
40. &c.
^o Hunt lib. 7.
fol. 219, 2. 1.

^p Apud Ead-
mer. pag. 93,
42.

^q Ann. 1175,
col. 587, 21.

^r Vide eas apud
Malmbsbu-
riensem fol.
118, a 32.
^s Lanfranc.
Epift. 3. pag.
301.

^t Stubs de
Arch. Ebor.
col. 1706, 3 1.
^u Eadmer.
p. 118, 5, 15.

^x Eadmer.
p. 120, 50. p.
121, 6.

^y Eadmer.
pag. 125.

viveret non reclamaturum : yet after the ^x Clergy of York sued to the Pope for his restitution, which produced that letter from Paschalis the 2. in his behalf to Hen. the 1. is in Eadmerus ; wherein he desires, if there were any difference between the two Sees, it might be discut in his presence. Which was not hearkned to; but Calixtus the 2. in a Councell by him held 1119. at Reimes (of which before) (the English Bishops not arrived, the Kings Agent protesting against it, the Archdeacon of Cant. telling the Pope that *jure* he could not do it) consecrated him Archbishop of York: upon which Henry prohibits him all return into his dominions. And in the enterview soon after at Gisors, though Calixtus earnestly laboured th' admitting him to his See, the King would by no means hearken to it. So the Pope left the businesse as he found it, and Thurstan to prove other wayes to gain th' Archbishoprick.

^z Sim. Dunelm. Ann.
1120. col.
242, 25.
^a Eadmer.
pag. 136, 43.

^b Beda, lib. 4.
cap. 1.

Note, Malmes-
bury fol. 26.

a. 33. says this
was Ann. 904. but that agrees not with Formosus his Popedom : Baronius therefore corrects it to 10. and makes Ann. 894.n. 11. but at that time Edward was not King.

61. Who thereupon became an actor in the peace about that time treated between *England* and *France*: in which his comportsments were such, that ^z priuorem ad se recipiendum Regis animum inflexit; so as upon the Popes letters he was afterwards restored, ^a ead dispositione, ut nullatenus extra provinciam Eboracensem diuinum officium celebraret, donec Ecclesia Cantuarensi, &c. satisfaceret. This I take to be the first matter of Episcopacy that ever the Pope (as having a power elsewhere of altering what had been here settled) did meddle with in *England*. It is true, whilst they were raw in Christianity, he did sometimes recommend Pastors to this Church; so ^b Vitalian did Theodore: and farther shewed himself sollicitous of it, by giving his fatherly instructions to the English Bishops to have a care of it;

so did Formosus or some other by his letters 904. upon which Edward th' elder congregated a Synod, wherein was Ann. 904. but that agrees not with Formosus his Popedom : Baronius therefore corrects it to 10. and makes Ann. 894.n. 11. but at that time Edward was not King.

five new Bishops were constituted , by which an inundation of Paganisme ready to break in on the West for want of Pastors was stopt. But it is apparent , this was done not as having dominion over them ; for he so left the care of managing the matter to their discretion , as he did no way intereste himself in it farther then advise.

62. A meeting of English Bishops 1107. at Canterbury , or (as Florentius Wigorniensis styles it) a Councell restored the Abbot of Ramsey deposed 1102. ^c *jussu d-*
peſtoliſco, or , as Eadmerus , ^d *juxta mandatum Domini*
Pape. It is manifest , this command from Rome to be of
 the same nature those I mentioned of ^e *Calvins* , or at
 the most no other then the intercession of the Patriarch
 of a more noble See , to an inferior , that by his means
 had been converted : For his restitution (after the re-
 ception of the Papall letters) seems to have been a
^f good while defer'd; so that what past at Rome did not
 disannull his deprivation here, till made good in England ,
 as at a time when nothing thence was put in execution
 but by the Regall approbation ; as the Pope himself
^g complained to the King. But after the Church of ^g *Eadmer.*
Rome , with th' assistance of th' English Clergy , had
 obtained all elections to be by the Chapters of the Ca-
 thedralls , upon every Scruple she interposed herself.

63. The greatest part of the Convent of London 1136. ^b chose Anselme Abbot of St. Edmundsbury for their Bishop , contrary to the Deans opinion and some few of the Chanons , who appealed to Rome ; where th' election 1138 was disannulled , the Bishoprick by the Pope recommended to Winchester , his then , or rather soon after , Legat ; which so remained till 1141. This is the first example of any Bishop chosen , received and in possession of a Church in this Kingdome , whose election was after quash't at Rome , and the sentence obeyed here ; as it is likewise of any Commendam on Papall command in the Church of England:

^c *Flor. Wi-*
gorn. p. 479.

^d *Eadmer.*

^e *pag. 92, 14.*

^f *supra n. 20.*

^f *Hoc per li-*
ras olim man-
daverat. Ead-
mer.

^g *Eadmer.*
^{pag. 113. pag.}
^{115.}

^b *Diceto col.*
^{506, 507.}

all which seems to have past with the Kings concurrence.

ⁱ Vide Iohan.
Hagulstad.
^{ab} Ann. 1142.
^{ad} Ann. 1152.

. . . Bernard.
Epist. 106.
234, 235,
237, 238.

64. For to deprive *WWilliam* elected somewhat after Archbishop of *York*, where he did not joyn, was not so easy : This man chosen 1142 by the greater part of the Chapter, after five years sute in the Court of *Rome*, . . . *St. Bernard* opposing him, had in the end his election annull'd by *Eugenius 3.* in a Councell held at *Reims*; the Chanons of *York* exhorted to chuse another; some of which made choice of *Henry Murdack*, then as it seems with the Pope : who coming as Archb.ishop into *England*, was not suffer'd to enter on his Archbischoprick, and excommunicating *Hugh de Puzat*, a person preferr'd by *WWilliam*, was himself by him excommunicated, no intermission of divine service in the City admitted ; and *Henry's* means to gain his See was by drawing the Bishop of *Duresme*, *Carlisle*, the King of *Scots*, and, by the Popes advise, this very *Hugh* by sweetnesse to his party, and in the end by the Kings Son (whom it seems he promised to get advanced to the Crown by the power of *Rome*) making his peace with *Stephen*, who soon after employed him thither on that errand: And this I take to be the second *English* election was ever here annull'd by Papall authority.

65. Here I may observe, that at first, when ever the Pope made voyd an election, he did not take upon him to appoint another in the place vacant : but either sent to the Clergy of the same Church to chuse another, as those to whom it appertained; so did *Eugenius 3.* to *York* when this ^k *H. Murdack* was chosen, *Innocentius 3.* when ^l *Stephen Langton*; or else the Bishoprick lay vacant, as ^m *London* after *Anselme* from 1139. to 1141. But elections being with much struggling settled wholly in the Clergy, and *Innocentius 3.* having ⁿ by definitive sentence excluded the *English* Bishops from having any part in that of th' Archbishop of *Canterbury*, they be-

^k Iohan:
Hagulstad. col.
276, 8.
^l Mat. Paris
Ann. 1207.
pag. 222, 40.
^m Diceto col.
307, 53. &
508, 20.
ⁿ Mat. Paris
Ann. 1206.
¶ 214, 44.

becoming wholly appropriated to the Chapters of Cathedrals, the Pope began to creep in, and ^{n ex con-} ^{n Pulla Gregor. 9. apud Mat. Paris Ann. 1229.} *cessa plenitudo Ecclesiastice potestatis*, as he speaks, without any formality of choice, to confer not only Bishopricks, but other Ecclesiastick promotions, within the precincts of others Dioceses, and by that means to fill the fat benefices of the Nation. The first Archbishop of Canterbury promoted by this absolute power of the Church of Rome seems to have been Richard 1229. • *non electo, sed dato ad Archiepiscopatum.* ^{o Mat. Paris pag. 355, 44.}

66. The p French Agent, in his Remonstrance to Innocentius 4^{us}, attributes the beginning of these collations to Innocent the 3d and I have not read that either Paschalis the second, Gelasius, Calixtus, or Innocent 2. though forced to live sometimes out of Rome, did ever exercise authority that way. But I will give it in his own words.

Certe non multum temporis clapsum est, ex quo Dominus Papa Alexander, persecutionis cogente incommodo, venit in Franciam, confugiens ad subsidium inclita recordationis Regis Ludovici patris Regis Philippi; à quo benigne susceptus est, & stetit ibi diu; & forte vivunt aliqui qui viderunt eum: ipse tamen in nullo gravavit Ecclesiam Gallicanam, ut nec unam solam præbendam aut aliud beneficium ipse Papa dederit ibi, sed nec aliquis prædecessor suus, nec multi etiam de successoribus dederunt in sua auctoritate beneficium aliquid, usque ad tempora Domini Innocentii 3. qui primus assumpsit sibi ius istud in tempore suo: Revera dedit multas præbendas, & similiter post ipsum Dominus Honorius & Dominus Gregorius q Mat. Paris Hist. minor. Ann. 1252. simili modo fecerunt; sed omnes prædecessores vestri, ut publice dicitur, non dederunt tot beneficia ut vos solus debetis, &c.

67. In what year th' Ambassador from France made this complaint, is not set down: But *q Mat. Paris* in his

Historia minori makes mention of it as done in or about 1252.

Diebus sub eisdem, Episcopo Lincolnensi computante, compertum & probatum est quod iste Papa, scilicet Innocentius quartus, plures redditus extortos ad suam contulit voluntatem, quam omnes ejus prædecessores; prout manifeste patet in lugubri querimonia quam reposuerunt Franci coram Papa pro suis intolerabilibus oppressionibus, quæ redacta est in scriptum Epistolæ admodum prolixæ, quæ sic incipit, Dicturus quod injunctum est mihi, &c. quere Epistolam, &c. By which it appears, that great liberty the Papacy took in conferring Ecclesiastick preferments within the Dioceses of others, took its rise from Pope *Innocent*, and ,as it seems to me, not at the

^rRoger. Ho- very beginning of his time; for 1199. ^rGelardus Arch-
ved. fol. 453. deacon of St. Davids coming from Rome, quia idem
b. 39. 454. b. 2. Gervas. G. Menevensis Ecclesia in curia Romana se dicebat electum,
Dorobern. hoc ipsum cassavit Archiepiscopus, & alium sacravit ca-
sol. 1682, 27. nonice electum; though he after bestowed on him a
in vitâ Huber. Church of 25. marks: and this in a case the Pope had
so earnestly espoused, as he wrote to the Bishops of
Lincoln, Duresme and Ely, si Archiepiscopus Cantua-
riæ sepe dictum Gilardum consecrare differret, ipsi Apo-
stolica autoritate freti illum consecrare non differrent:
which yet th' Archbishop, as against the English liberty,
did not doubt to oppose, and disannul.

^fIn antiquo
MS. Bullas-
rum Romano-
rum Tonifi-
cum Archiepi-
sc. Cant. Tulla
6. Honer. 3.

68. But thus it continued not long; for ^fHonorius, the immediate successor to *Innocentius 3^{us}*, shewing such as served th' Apostolick see, and resided with it, were worthy *congruis beneficiis honorari*, and were therefore possest of divers both in *England* and other parts, which they did administer with so great care, *quod non minus beneficiantibus quam beneficiatis utiliter est provisum*; unde, quia nonnunquam beneficiatis hujusmodi decedentibus, beneficia quæ obtinuerant, inconsulis hiis ad quos eorum donatio pertinebat, aliis successive collatis.

collata, perpetuo illis ad quos pertinent videbantur amitti, propter quod etiam murmurabant plurimi, & alii se difficiliores ad conferendum talibus beneficia exhibebant: Nos volentes super hoc congruum remedium adhibere, ne cuiquam sua liberalitas sit dampnosa, per quam potius meruit gratiam & favorem, statuimus, ut clericis Ecclesiæ Romanæ, vel aliis Ytalicis, qui præbendas vel Ecclesiæ, seu alia Ecclesiastica beneficia in Anglia obtinent vel obtinuerint à modo decedentibus, Præbendæ vel Ecclesiæ, seu alia beneficia nequaquam à nobis vel alio illa vice alicui conferantur, sed ad illos libere redeant ad quos illorum donatio dinoscitur pertinere, &c. Dat. Lateran.

∴ quarto Kalend. Martii, Pontificatus nostri anno quinto. ∴ 26. Febr. 1221.

69. Yet neither this, nor the renewing of it by Gregory the 9. with a speciall indulgence directed venerabilibus fratribus universis Archiepiscopis & Episcopis, ac dilectis filiis Abbatibus, & aliis Ecclesiarum Prælati per Angliam constitutis ---- ut si quando ad vos literæ Apostolice pro beneficiandis hujusmodi de cætero emanarunt, ad provisionem ipsorum inviti non teneamur, nisi de hac indulgentia plenam fecerint mentionem. Dat. Lateran.

∴ 15. Kalend. Maii, Pontificatus nostri anno 4^{to}., &c. could quiet the English, or keep them from that confederation in Mat. Paris 1231. beginning, "Tali Episcopo & Mat. Paris & t In eodem MS. Gregor. 9. Bulla 3.

& tali capitulo, Universitas eorum qui magis volunt mori quam à Romanis confundi, &c. Which the Popes, by wisdome, and joyning the Regall auctority with their spirituall, found means to bring to nought; and pursuing the Papall interest without regarding what had past from them, gave the Kingdome occasion 1241. to observe, that in onely three years Otho had remained Legat here, he bestowed more then 300. spirituall promotions, ad suam vel Papæ voluntatem; the Pope having contracted (as the report went) with the Romans, to confer to none but their Children and Allies the rich benefices here, especially of Religious houses,

x Mat. Paris
Ann. 1241. p.
549, 18, 22,
&c.
y Idem Ann.
1240, p. 532.
43.

houses, (as those perhaps he had most power over) and to that effect had writ to the Bishops of *Canterbury* and *Salisbury*, *ut trecentis Romanis in primis beneficiis vacantibus providerent*. So that in the Councell at *Lions*

a Apud Mat.
Paris p. 617,
36.
a cip. 4. n. 17.

1245. they complain of these exorbitances, *z* and shew the revenues the *Italians* received in *England* not to be lesse then 60 thousand marks; of which more *a* hereafter: and in the year following 1246. reiterated their griefs to *Innocentius 4th*, *b quod Italicus Ital: co sucedit*. Which yet was with little successse: for the Popes having (as we have heard) first settled all elections in the Ecclesiasticks, and after upon severall occasions, on the submitting of the *English* to his desires, bestowed the benefices in this and other Kingdomes on his dependents, *c John* the 22. (or, as *d* some seem to think, *Clement* the 5. his immediate predecessor) endeavored the breaking of elections by Cathedralls and Convents, reserving the free donation of all preferments to himself alone.

c Cardinal.
Ostia. Epist.
295. dat.
Rom. 1601.
December. 22.
d Rot. Parl.
3 R. 2. n. 37.

70. From whence proceeded the reiterated complaints against Papall Provisions, in the Parliaments of *Edward* the 3. and *Ric.* the 2. for this Kingdome never received his attempts in that kind: to which purpose the Historye of *John Devenish* is remarkable. The Abbot of *St. Augustines* dying 1346. the 20. Ed. 3. the Convent by the Kings leave chose *VWm. Kenington*; but *Clement* the 6. by Provision bestowed the Abbacy on *John Devenish*, whom the King did not approve of, yet came thither armed with Papall au^tority. The Prior and Convent upon command absolutely denied him entrance, *ingressum monasterii in capite denegando*;

e Wm Thorn
2082, 2. &
sequent. vide
Walsingham
Ann. 1374.
pag. 184, 1.
Thorn, Ann.
1373. col.
2187, 57.
See t^e Hi-
story of Ni-
cholaus de

Spyna resigning the Abby of *St. Augustins*, and on his nominating him, *Thomas Fyndon* prefer'd to be Abbot thereby *Martin* the 4. who on the receipt of the Papall Fulls, acquainted *Edward* the 1. wth what had past at Rome himself being in *England*; yet by command the house was seized into the Kings hand, and he at the Parliament held at *Acton Burnell* fined at 400. marks, pro eo quod sic fuerat creatus in *Abbatem*, *licentia Domini Regis* *minime peuita*, *Thorn, Col. 1939, 1. & 1934.*

who

who thereupon returned to *Avignon*. The businesse lying two years in agitation, the King in the end, for avoyding expences and other inconveniences, ^{f ex} *vide varius
abundanti concessit ut, si idem Iohannes posset obtainere à
summo Pontifice quod posset mutare stylum sue creationis*
*sive provisionis, scilicet non promoveri Abbatia prædicta
ratione donationis vel provisionis Apostolice, sed ratione
electionis capituli hujus loci, illa vice annueret, & suis
temporalibus gaudere permetteret: sed quidem hujusmodi
causa coram ipso summo Pontifice proposita, concludendo
dixit, se malle cedere Pontificio, quam suum decretum ta-
liter revocare, &c. Which so afflicted the poor man, as
the grief killed him on *St. John Baptists Eve* 1348.
without ever entring the Abby; and the dispute still con-
tinuing, the Pope 1349. wrote to the King, ^{g Hen.} *Ne Rex
impediret, aut impediri permitteret promotos à curia per
bullas acceptare beneficia sibi taliter incumbentia.* To
which his May answer'd, *Quod Rex bene acceptaret pro-
visos clericos qui essent bona conditionis, & qui digni es-
sent promoveri, & alios non.**

71. But the year following 1350. the 25. Ed. 3. the ^h Commons meeting in Parliament complain with great
resentment of these Papall grants, shewing the Court
of Rome had reserved to it self both the collation of Ab-
beys, Priories, &c. as of late in generall all the dignities
of *England*, and Prebends in Cathedrall Churches, &c.
Upon which the statute of Provisors was in that Parlia-
ment enacted; which was the leader to those other sta-
tutes, 27, and 38. Ed. 3. ⁱ The 48. Ed. 3. 1374. the treaty
between Ed. the 3. and *Gregory the xi*, was concluded
after two years agitation, wherein it was expressly
agreed, *quod Papa de cætero reservationibus beneficio-
rum minime uteretur, &c.* Notwithstanding which,
the Commons the next Parliament prefer'd a petition,
shewing ^j all the benefices of *England* would not suffice
the Cardinalls then in being, the "Pope having by the
addi-

^f *Vide varius
lectiones ad
col. 2117. 54.*

<sup>que vero ibi
debent inter-
seri pertinent
ad Hist. de qua
hic agitur col.
2082.</sup>

^g *Hen.
Knighton
col. 2001. 370.
49.*

^h *Rot. Parl.
Octav. Purif.
25. Ed. 3.
n. 13. See the
words of the
petition, cap. 4.
n. 15.*

ⁱ *Walsing. bish.
1374. pag.
184, 6.*

*Ros. Parl.
1. R. 2. n. 56.
Thorn, 1373.
col. 2187. 58.*

^k *Ros. Parl.
50. Ed. 3. n.
110, 115.
Gregory. 13.*

addition of XII. new ones raised the number to XXX. which was usually not above XII. in all; and therefore they desire it may be ordained and proclaimed, that neither the Pope nor Cardinalls have any Procurator or Collector in England, *sur peine de vie & de membre, &c.* Yet the inconveniences still continuing, 3. Ric. 2. produced that ^k statute is in the print: I shall not here repeat otherwise, then that the Commons in the Roll, seem to lay the beginning of these excesses no higher then Clement the 5.

72. By these arts, degrees and accessions, the Church of *Rome* grew by little and little to that immensenesse of opinion and power it had in our nation; which might in some measure (whilst it was exercised by convenience onely, upon the good correspondency the Papacy held with our Kings and Church,) be tolerated, and the Kingdome at any time by good Lawes redresse the inconveniences it susteined. But that which hath made the disputes never to be ended, the parties not to be reconciled, is an affirmation that *Christ* commanding *Peter* to feed his sheep, did with that give him so absolute a power in the Church, (and derived the like to his successors Bishops of *Rome*,) as without his assent no particular Church or Kingdome could reform it self: and for that he as a Bishop cannot be denied to have as much power as others from *Christ*, and may

^l Christi vice
carii sacerdo-
tes sunt qui
vice Christi
legatione
funguntur in
Ecclesia. Eu-
sebii Pape E-
pis. 3. to. 1.
Concil. Ele-
ctum à Fratribus Christi Vicariis suscipiant, (scil. in Abbatem:) Hydensum leges ab
Edgardo cap. 15. Concil. Spelm. pag. 440. quis locus poterit esse tutus, si rabies sanctorum eruentat? & Vicarios Christi, alumnos Ecclesie dilacerat? Epist. Wi. Senonenfis, apud
Hoved. Ann. 1171. fol. 299. b. 32. de morte Thomae Archiepiscopi.

in their own ages deliver'd when and how these additions crept in, and by what oppositions gained; that our Princes have, with th' advise of the Lay and Clergy, ever here moderated th' exorbitances of the Papacy in some particular or other, and likewise reformed this Church; though the stipulations between our Kings and *Rome* have not been perpetuall, but temporary, not absolute, but conditionall, as is to be seen in that past between *Alexander the 3.* and *Hen. the 2.* viz. *mjuravit quod ab Alexandro summo Pontifice, & ab Catholicis ejus successoribus non recederet, quamdiu ipsum sicut Regem Catholicum habuerint*; that the English Bishops being excommunicated by the Popeⁿ might not take an oath of obedience to his commands, *quia regni consuetudines impugnabat*, though he did never exercise any authority here, but according to such stipulations, contracts and agreements with our Princes, as the Lawes permitted; and therefore when he sent hither a Legat à Latere, ∵ he was tretyd with or he cam in to the lond, whon he schold have exercise of his power, and how myche schold bee put in execution: *An aventure after he had bee 79. reseyved, he whold have used it to largely, to greet oppression of your peple, &c.* as the Archbishop wrote to *Hen. 5.* as I have shewed numb. 55.

73. Though the Lawyers of the Kingdome do ^o constantly affirm, as the Law and Custome of the Realm, the Kings Courts never to have carried regard to any forraign excommunication, and if any such came from *Rome*, p notto be put in execution, but by allowance first had: to which effect it is remembred, the Bishops of *London* and *Norwich* having publish't in their Dioceses the Popes excommunication of *Hugh Earl* (as it seems) of *Chester*, without the privity of *Hen. the 2.* or his *Chief Justiciar*, the Kings writ issued out in this manner; *q Londoniensis & Norwicensis Episcopi sint in misericordia Regis, & summoreantur per Vicecomites*

m Gervas.
Dorobern.
cii. 1422, 18.
Hoved fol.
303. a. 1.
Ann. 1172.
n Iohan. Sa-
risbur. Epist.
279. p. 483.

.. Epist. Hen.
Chichly in
vita ejus, pag.

^o *Fitz. Ex-*
commenga-
ment, 4, 6, 10.

^p *Tide Ho-*
veden. fol.
284.b. 23.

^q *Ex antiquo*
MS.

coram. Ho-
veden.

¹ pag. 103, 43.

¹ Girolamo
Cavend vita di
Pro 5^{to}. pag.
96, 97, 98,
100. in 8^{vo}.

Rome 1587.

² Adriani
Hist. lib. 19.
pag. 1378. A.

³ Ger. Doro-
bern. col.
1422, 50.

⁴ pag. 6.

y 2. H. 4. Ac-
cion sur le case.
25. Fitz.

* 31. Ed. 3.
Excommen-
gement. 6.

⁵ Froissard.
10. I. cap. 47.
pag. 58. Gall.

* Benedictus
xii. Iacobus
Meierius An-
nal. Flandr.
Ann. I. 40.
fol. 141, a.

& Bedellos, ut sint contra Iusticias Regis, ad rectum fa-
ciendum Regi & Iusticiis ejus de eo quod, contra statuta de
Clarendone, interdixerunt ex mandato Papae terram co-
mitis Hugonis, & excommunicationem quam Dominus
Papa in ipsum fecerat per suas parochias divulgaverunt
sine licentia regis. This however contracted in Hoveden
1165. and in Paris 1164. yet the difference is such as
may deserve a remembrance. It seems to me, what our
Kings claimed, not to be altogether unlike the *Exe-
quatur of Naples*, observed to this day in that Kingdome,
notwithstanding all contests from Rome.

74. Neither did the Crown ever relinquish this
right, not at the peace after Becket's death, when "Hen-
ry the 2. assented to quit no other then *Consuetudines
qua introductae sunt tempore suo*; which it is manifest this
was not, as appears by ^x Eadmerus. It is farther observ-
able, that by the common Laws (that is y the com-
mon Custome of this Realm) the * sentence of the
Archbishop is valid in England, and to be allowed in
the Kings Courts, though controuled by the Pope: and
to shew our Princes had no regard to any thing of this
nature from thence, other then such a complying with
a reverend Prelat as I have formerly mentioned did ad-
mit, it may not here be unfitly inserted what ^z Froissard
writes of Edward the third, with whom the Flemings
joyned against the French; upon which, (but I shall de-
liver it in his own words) *Adonc le Roy de France s'en
complainoit au Pape * Clement sixieme, qui getta une sen-
tence d'excommuniement si horible, qu'il n'estoit nul prestre
qui asast celebrer le divin service : De quoy les Flamens
envoyerent grande complainte au Roy d'Engleterre ; lequel
pour les appaiser, leur manda, que la premiere fois qu'il
rappasseroit la mer, il leur ammeneroit des Prestres de son
pays qui leur chanteroient la Messe, vousist le Pape ou non
car il estoit bien privilegié de ce faire : & par ce moyen s'ap-
paiserent les Flamens, &c.* As for the priviledge here

spoken

spoken of, that can be no other then the obligation all Kings owe unto God, for seeing his word sincerely taught them live under their protection, without the disturbance of any.

75. In which kind ours have been so far from yielding obedience to the Papall attempts, as *Edward* the first could not be induced to spare the life of one brought a ^a Bull from the Pope, might have made some disturbance, but by his abjuring the Realm; as his grandchild *Edward* the 3. did ^b cause some to suffer for the same offence. And on occasions our Kings have prohibited all intercourse with *Rome*; ^c denied their Bishops going thither so much as for confirmation, but the Metropolitans, if need were, should by the Kings writ be charged to confirm them; ^d commanded their subjects not to rely on any should come from thence, affirming, *quod in regnum nostrum nec propter negotium nostrum nec vestrum ullatenus intrabit ad terram nostram destruendam*. Yet notwithstanding so notorious a truth, back't with so many circumstances, grounded upon unquestioned monuments of antiquity, hath not been received; but the bare affirmation, *Christ* by *pascere oves meas* intended *Peter*, and by consequence the Pope, to be the generall Pastor of the world, and the meaning of those words to be, that he should ^e *regio more impare*, hath so far prevailed with some, as to esteem the standing for the rights of the Kingdome, the Laws and Customes of the Nation, to be a departing from the Church Catholick; and to esteem no lesse then Hereticks those, who defending that which is their own from th' invasion of another, will not suffer themselves to be led hood-winkt, to think the preservation of their proper liberty is a leaving *Christ*, his Church, or the Catholick faith.

76. I dare boldly say, whoever will without partiality look back, shall find the reverence yielded from this

^a *Aßise lib.*
30. placit. 19.

^b *Walsing-*
ham Hist.
Ann. 1338.

pag. 165. 48.

^c *Vide Ho-*
ved. fol 284.

^b *13.*
Rec. Parl. 16.

March. 3. H. 5.

n. 11. See the

9. H. 4. n. 37.

^d *Gervas. Do-*
rober. col.

1552, 51.

^e *Bellarus.*

Recognit. pag.

21. Edit. In-

golßau. 1108.

Church to *Rome* for more then a thousand years after *Christ*, to have been no other then the respect of love, not of duty, and Popes rather to *consulere* then *imperare*; their dictats to have been of the same nature *f* the German Princes were of old, *auctoritate suadendi magis quam jubendi potestate*, never requiring a necessity of obedience *eo nomine* that they came from *Rome*, but for that they were just and reasonable: neither did the Pope send any Agent hither to see them put in execution; but th' Archbishop, according to the exigent of times, receiving his wholesome advises, caused such as he held of them did conduce to the good of the English Church

g Beda lib. 4. cap. 17.
h Malmsbur. fol. 150, &c.
i vide Eadmer. pag. 62,
36. Lanfranci Epist. 20. pag. 311.

k Florent. Wigorn. Ann. 1070.
l Baron. 10.
m Anno 1071. n. 11.

pig. 435. & 436. Sim. Dunelm. col. 292.

l *Agelricus Bishop of the South-Saxons* is degraded, and his Bishoprick confer'd on *Stigandus*: *Alexander the 2.* not approving what had past, *l* writes to the King, this cause seemed to him *non ad plenum tractata*, *ideoque sicut in canonibus cautum est*, *in pristinum locum debere restitui* *judicavimus*; *Deinde, causam ejus, juxta censuram canonice traditionis diligenter retractandam & definierandam*, *predicto fratri nostro Archiepiscopo Lanfranco commisimus*. It is certain (however some writers might upon this or for other causes think his degradation to have been *non canonice*) those times did not interpret this (though writ with so great earnestnesse) for other then advise or intercession,

tercession, not as of a person had an absolute power of commanding in the businesse; for we never read of any proceedings upon it, not Lanfrank at all ever to meddle in the case, that he ever esteemed ^m Stigard a lawfull Bishop Epist. 27, 28. who in the year 1075. being in a Councell at London, according to the Decrees of it, removed his Episcopall Chair from Selsey to Chichester, of which he ^o died Bishop 1087. without being at all, for what appears, questioned or disturbed after the first grant of it. Divers examples of the like nature occur too long to be repeated, where the King or his ch:ef Justice prohibit the Papall precepts from being put in execution: and it is agreed by Lawyers, that not the command, but the constant obedience, is it which denotes a right of commanding; and in cases of this nature *prob bentis potior est condito*, one example in the negative, when the thing is stood upon, being of more weight then twenty by compliance in the affirmative.

77. It is probable, neither the King nor the Bishops would introduce any new matter of great concernment into this Church, without the privity of so great a Doctor, Patriarch of a See, from which their ancestors had received the first principles of Christian Religion; but it is manifest, what past, (if he were acquainted with it) was by their own authority, not his. When Offa intended the erecting of Litchfield into an Arch-bishoprick, he did it by a Councell at Calcuith: Lambertus (as what he approved not) producing *q crebra sedis Apostolice & vetera & nova edicta* against it, yet the thing proceeded. Lucius the 2. went so far in his intentions to raise Winchester to an Archiepiscopall Chair, as he sent the pall to the Bishop: yet it being not approved here (as the event shews) that Town never yet had the honour. Henry the first having in his ^r Lawes appointed how a Bishop, Presbyter, Monk, Deacon, &c should suffer, committing homicide, concludes, *Si quis ordinatum occidit,*

^m Lanfranci Epist 27, 28.
^o apud Eadmer. pag. 13.
ⁿ Malms. de pontif. lib. 1. fol. 12. b. 27.
^{Vitus Lanfranci} cap. 12. pag. 12. c. col. 1.
^o Florent. Wigorn. Ann. 107.
pag. 449.
^P Vide Ger-
yas. Doro-
bern. Ann.
1087 col.
1503, 38.

^q Malms. de regibus lib. 1. fol. 13. b. 34.
^{..} Diceto
^{Ann. 1142.}
Mat. West.

^r Leg. Hen. 1.
cap. 73. pag.
204. 29.

* Legendum
Nunne cum
MS. Lon-
don. Seld. &
nostro, non
nimio, ut MS.
Schachar.

t Leg. Hen. I.
cap. 31. p. 187.
29.
u Ibid. cap. 5.

pag. 178, 28.

x Ingulph.
fol. 522. a. 6.

y Eadmer.
pag. 29, 23.

z Rot. Parl.
18. Ed. 3.
n. 23. 24. pet.
x. du Clergic.

Walsing.
Hist. Ann.
1344. p. 155,
1.

*dat, vel proximum suum, exeat de patria sua, & Romani
adeat, & Papam, & consilium ejus faciat; de adulterio,
vel fornicatione, vel* Nunnae concubitu similiter pœnitentia.
Where it is observable, the King ordains the Penance,
permits the delinquents peregrination to Rome, to re-
ceive from the Pope (as from a great Doctor of the
Church) spirituall counsell, which else he was not ad-
mitted to seek; for *peregrina judicia modis omnibus sub-
movemus*; and again, *"ibi semper causa agatur, ubi cri-
men admittitur.**

78. William the first (who began his expedition a-
gainst Harald by the counsell of Alexander the 2. and re-
ceived a x banner from him) minding the deposition of
th' Archbishop of Canterbury, procured the Pope to
send certain Ecclesiasticks hither to joyn in the action, as
likewise soon after for determining the question of pre-
cedency between Canterbury and York; upon which
there grew an opinion, y *Archiepiscopum Cantuarien-
sem à nullo hominum, nisi à solo Papa, judicari posse vel
damnari, nec ab aliquo cogi pro quarvis calumnia cuiquam,
eo excepto, contra suum velle respondere.* This no doubt
was promoted by th' Archbishops, as what exempted
them from all home jurisdiction, the Bishops in gene-
rall did after think in some sort to introduce; and there-
upon put in this petition in Parliament z 18. Ed. 3. qe
pleise a Roy, en maintenance del estat de seint Esglise,
graunter & ordeiner en cest Parlement, qe nul Ercevesque
ou Evesque soit desormez, arreynez, ne empeschez devant
ses Iustices, en cause criminale, par quecunque voyc, de si
come sur tiele cause nulle alme ne les poet juger, si noun le
Pape seulement. But to this the answer is no other then, Il
est avis, qe en cause de crime, nul Ercevesque ou Evesque
soit empesche devant les Iustices, si le Roy ne le commande
especialment tant qe autre remedie soit ordeinez: which he
did likewise confirm by Charter there registered, and as
a Walsingham hath truly recorded.

79. This opinion , though ^b new to the English , questionlesse encouraged *Anselme* to oppose the King in many particulars , and Popes to go farther ; as to claim Princes should not confer Investitures , nor define matters of Episcopacy , &c. then to bestow preferments within this Kingdome , at first by consent , and with the limitation no *Italian* to succeed another , then to reserve to themselves the collation of all benefices ; of which before . To conclude this ; whosoever will without prejudice weigh the reformation of *England* by *Hen. the 3. Edward the 6.* and more especially *Queen Elizabeth* in the point of supremacy , must grant these Princes did not assume to themselves any thing , but such particulars as the Court of *Rome* had in a long series of time incroached in on the Crown and *English* Church . If at any time our auncestors styled the Pope *Princeps Episcorum* , it was in no other sense then they did *St. Peter Princeps Apostolorum* ; by which what principality they intended him , we cannot better understand then by the Saxon , who renders it **Ealdon Daja Apostola* , the Elder of the Apostles . If they called him *suc^eessor* or *Vicarius Petri* , they were not alone appropriated to him , for ^d *Petrus Blesensis* and others give the Bishop of *York* the same titles ; and the Bishop of *Bath* , who had a Church dedicated to *St. Peter* , he bids remember *quia Petri Vicarius es* tis . So did they likewise in some sense call Kings ^c Christ's Vicars , as well as Bishops . If at any timethey gave the Pope the title of *thead* of the Church , it was , as being the first Bishop , he was held to be , as *St. Bernard* tells us , *in beneficium causam* ; as they ^b termed *Oxford* the fountain and mother of our Christian faith . I can not therefore but wish a * late wri-

^b *Proinus intellexerunt quod prius non animadverterant. Eadmer. p. 29, 21.*

^c *Beda Latin-Saxon edit.*
1644.lib.2.
cap. 6. p. 123.
lib. 4. cap. 18.
p. 302. &c. a.
libi.

^d *Epist. 113,*
148. *Vide*
Stubbs de
Archiepisc. Eb- bor. in Al- dredo col.

1703. 37.
1704. 13.
vide supr. c. 2.
n 72.

^e *Leg. Edwar- di Confessoris*
cap. 17. Sel-

ter,

deni Note ad Eadmer. p. 155, 12, &c. f Rot. Tarl. at Glouceſt. n. 78. in nonnullis libris im- preſis cap. 6, & 7. g Bernard. de consideratione lib. 3. cap. 3. h Rot. Parl. 1. Hen. 6. n. 43.
** Philip Scot his treatise of Schisme, p. 165.*

ter, that sayes England had a known subjection to Rome acknowledged even by our Laws, ever from the conversion of our Country under St. Gregory, had expressed in what particulars that subjection did consist, what those Laws are, and where to be found. The truth is, as there is no doubt our Auncestors in former times would not have joyned with the Synod of Gap, in causing so ∵ disputable ambiguous a question as that the Pope is Antichrist to have been taught as the faith of the English Church; so there is no question, but it hath been ever the Tenet of it, *Pontificem Romanum majorem aliquam jurisdictionem non habere sibi à Deo collatam in Sacra Scriptura in hoc regno Angliae, quam alium quemvis externum Episcopum:* which our ∵ Historians do mention as what proceeded from the constitutions of the Church and assent of Emperors, not as of a thing in itself *juris divini*: insomuch as,

80. That proposition, i when it was propounded 1534. in Henry the 8th time in convocation, all the Bishops without exception, (and of others onely one doubted, and four placed all Ecclesiastick power in the Pope,) both the Universities, and most of the Monasteries and Collegiat Churches of England, approved & avowed as the undoubted opinion of the Church of this Nation in all ages. Neither can I see how it can be otherwise: for if the Church of Canterbury ^k were *omnium nostrum mater communis sub sponsi sui Iesu Christi dispositione*, if it were *Mater omnium Anglicanarum Ecclesiarum, & suo post Deum proprio letatur pastore*; that is, if th' Archbishop had no mediate spirituall superior but Christ & God; if the power the Pope exercised over him within this Realm were ^l *voluntate & beneficio*, gained, as I have shewed, by little & little, voluntarily submitted unto; it could be no other then *jure humano*: and then it must be granted, the Church of England could not hold any necessity of being in subjection to the See or Church

∴ I will not undertake to maintain that the Pope is Antichrist, professing my weaknes & ignorance of those propheticall Scriptures to be so great, that I dare not be confid- ent in my interpreta- tions of them. Taxter his Christ an concords Ex- plication. p. 69.

∴ Diceto, Ann. 607. & 608. col. 437; 23.

i Antiquit. Bri- tain. Eccles. pag. 334, 37. edit. London. 1573.

^k Ger. Doro- beta. col. 163, 24. col. 1615, 60, 63.

l Epist. Ra- dulph. Archi- episc Calixto 2. col. 1736. 1.

Church of *Rome jure divino*; as it is manifest they did not, in that they ^m sometimes acknowledged no Pope, ^{pag. 25, 40.}
 " otherwhiles shewed an intent of departing from his ⁿ Mat. Paris,
 union, and the Bishops as well as Lay Lords advised ^{Ann. 1163.}
Anselm, o Urbani obedientiam abijere, subjectionis ju-
gum excutere, &c. Neither could the Church of *Eng-*
land be any way possible guilty of Schism, adhering to
 their Ghostly Superior next and immediate under *Christ*
Iesus.

As for the temporall profits the Court of *Rome* re-
 ceived hence, though the denying them can be no just
 cause of such a spirituall imputation, especially on pri-
 vat men; yet certainly who will examin their beginning,
 as he shall find it to have been by the bounty or permis-
 sion of our Princes, so upon search he will perceive the
 Kingdome went no farther then the Common Law, the
 precedent of former times, and such an exigency did
 force them to: of which therefore I shall adde a word
 or two.

C H A P. IV.

*Of the Payments to the Papacy
from England.*

1. **H**e vast summes the Court of *Rome* did of late years upon severall occasions export out of this Kingdome, mentioned in the statute of the 25. Hen. the 8. are spoken of by severall of our writers: and though some have in generall expressed how much the Nation suffer'd in that kind; yet none, that I know, in one tract did ever shew by what degrees the Papacy gained so great a revenue, as the Commons in *Edward* the thirds dayes had cause to complain, it did turn *a plus grand destruction du Royaume qe toute la guerre nostre Seigneur le Roy*. I have thought therefore that it will not be amisse to set down, how the Pope came to have so great an influence over the treasure of the Clergy in this Land, by seeking out how and when the greatest of the paiments made to him began, what interruptions or oppositions were met with, either at the beginning or in the continuance of them.

2. The first payment, that I have read of, which gave the Pope an entrance as it were in to it, was that bounty of our Princes known to this day by the name of *Peter-Pence*: and this as it was given for an ^d Almes by our Kings, so was it no otherwise received by the Court of Rome; *Eleemosyna beati Petri, prout audivimus, ita perperam doloseque collecta est, ut neque mediam ejus partem hactenus Ecclesia Romana suscepit*, saith *Paschalis* the 2. So that no question ^f *Polidore Virgil* very inconsiderately termes it *vectigal*, and others, who by that gift contend the Kingdome became ^g *tributarium feudarium* ^h *S^to. Petro ejusque successoribus*: for though the word *tributum* may perhaps be met with in elder ^b writers,

^a 25. Hen. 8.^b cap. 21.^b Apud Mat.
Paris Epist.
universtat.^c Anglie, Anno
1245. p. 667.
38.^c Rot. Parl.
stat. Purific.
25. Ed. 3.
^d n. 13. of which
hereafter n. 15.^d Vide Epist.
W^m. I. apud
Baron. to. 11.
Ann. 1079. &
inter Lan-^e Epist. Hen-
rico I. apud
Eadmer.^f pag. 113, 27.^f Hist. lib. 4.^g p. 89, 40, 43.^g Note in
Lanfranci E-^h p. 347.

col. 2. d.

^h Malmsbur.

fol. 128. b. 25.

ters, yet never did any understand the Pope by it to become a Superior Lord of the Lay fee, but used the word metaphorically; as we do to this day terme a constant rent a kind of *tribute*, and to those who pay it, and over whom we have in some sort a command, we give the title of subjects; not as being Princes over them, but in that particular being under us, they are for it styled our inferiors.

3. What Saxon King first conferred them, whether *Ina*, as ⁱ *Ranulphus Cestrensis* layes report carryed, or *Offa*, as ^k *Iorvalensis*, I will not here enquire, as not greatly materiall. ^l *Polidore Virgil* tells, some write *Ethelwolphus* continued it: with whom *Brompton* seems to concur. It is true, our Historians remember he caused ^m 300. *mancusas denariorum* (ⁿ *Malmsbury* renders it *trecentas auri marcas* (which was ten times the value of silver) as ^o another *trecentatalenta*) to be carried every year from hence to *Rome*; which could be no other then the just application of *Peter-Pence*: for amongst sundry complaints long after from ^p *Rome*, we find the omission of no painment instanced in, but of that duty onely; neither do the body of the Kingdome in their ^q *Remonstrance to Innocentius 4. 1246.* mention any other as due from hence to *Rome*.

4. This therefore thus confer'd by our Kings, was for the generality continued to the Papacy; yet (to shew, as it were, that it proceeded only from the liberality of our Princes,) not without some stops. Of those in the times of *William the first & Henry his Son* I have ^r spoke. *Henry the 2.* during the dispute with *Becket* and *Alexander* the 3. commanded the Sheriffs through *England*, that ^s *Denarii beati Petri colligantur, & serventur, quousque inde Dominus Rex voluntatem suam praeceperit.* During the Reign of *Edward the 3.* the Popes abiding at *Avignon*, many of them *French*, their partiality to that side, and the many Victories obtained by th' English be-

ⁱ *Polychronic.*
^l *b. 5. cap. 24.*
See *Brompton*
col. 802, 23.
^k *Col. 776, 37.*
^l *Lib. 4. p. 89,*
44.

^m *Florent.*
Wigorn.
Ann. 855.
ⁿ *pag. 300. &*
^o *Sim. Duenelm.*

ⁿ *De Regibus*
lib 2. cap. 2.
fol. 22. a. 27.
^o *Iorvalensis*
col. 802, 27.

^p *This ap-*
peares by the
Epistle of Wil-
liam the 1. to
Paschalis
the 2. before
cited, and so to
Henry the 1.
^q *Apud Mat.*
Paris p. 198.

^s *1.*
^r *Cap. 3. n. 17.*
cap. 4. n. 2.
^s *Apud Mat.*
Paris Anno
1164. p. 103.
^t *45. & Ho-*
veden Anno
1165. fol. 284.
b. 26.

^a Hen.
Knighton
col. 2615, 41.
^x Caxton.
Continuat.
Polychronic.
cap. 2. Stow
Ann. 1363.
^y Hen.
Knighton col.
2664, 66. &
2644, 31.
^z In fasciculo
zizaniorum
MS. in Bi-
blioteca An-
tiquaria Arca-
chani, fol. 59,
b. col. 2.

gat the proverb, "Ore est le Pape devenu François, & Iesu devenu Angleis, &c. about which time our Historians observe, the King gave command x no Peter-Pence should be gather'd or pay'd to Rome. And this restraint, it seems, continued all that Princes time; for Richard the 2. his successor at his beginning caused John Wickliffe, esteemed the most y knowing man of those times, to consider the right of stopping them; whose determination in that particular yet remains, entituled ^z *Rponsio Magistri Iohannis Wicliff ad dubium infrascripnum, quæsum ab eo per Dominum Regem Angliae Richar-dum secundum & magnum Concilium, anno regni sui pri-mo*: then the question followes, *Dubium est, utrum regnum Angliae possit legitime, imminente necessitate sue defensionis, thesaurum Regni detinere, ne deferatur ad exterios, etiam Domino Papa sub pena censurarum & vir-tute obedientiae hoc petente; & relicto viris peritis quid dici debet in ista materia, secundum jus canonicum, secun-dum jus Angliae vel civile solum restat suadere partem af-firmativam dubii, secundum principia legis Christi*: then shews, those paiments being no other then Almes, the Kingdome was not obliged to continue them longer then stood with its own convenience, and not to its detriment or ruine; agreeing therein with that of Di-vines, *extra casus necessitatis & superfluitatis Eleemosyna non est in præcepto*.

5. But in the Parliament held the same year, the question was concluded: for there this petition being prefer'd, ^a que y puisse estre declaree en cest present Parlement, si la charge de la denir Seint Pierre, appelle Rome peny, sera leve des dites Comunes, & paye al Collector nostre Seint Pere le Pape ou noun; the answer was, soit fait come devant ad este usee: By which the use of them being again returned, did so remain till Henry the 8th. time. For though in a ^b councell held at London 1408, it was treated de censu & obedientia Papa substrahendis vel non substrahendis;

^a Rot. Parl.
^b Ric. 2. n. 84.

^c Walsing.
Hist. Anno
1408. p. 420,
2.

bendis; yet that it past farther then words I have not observed. But King ^c Henry 153³ took them so absolute-ly away, as though Queen Mary repealed that Act, and *Paulus Quartus* dealt earnestly with her ^d Agents in *Rome* for restoring the use of them; yet I cannot find they were ever gather'd, and sent thither during her time: but where some Monasteries did answer them to the Pope, and did therefore collect the taxe, that in processe of time became as by custome pay'd to that house; which being after derived to the Crown, and from thence by grant to others, with as ample profits as the Religious persons did possesse them, I conceive they are to this day pay'd as an appendant to the said Man-
ors, by the name of *Smoak-mony*.

6. Before I passe from this, one thing is not to be omitted: that however the Pope had this as a due, and for that end his Collector did abide in *England*; yet he might not raise the auncient accustomed proportion of the *Taxe*, nor in any kind alter the manner of taking it: for when *Rigandus* from the Pope endeavored that, he was streightly prohibited by *Edward the 2.* The ^e Act it self is printed.

As for the value these *Peter-Pence* did amount to, I have seen in an old *MS.* belonging to the Church of *Chichester*, a Bull said to be of ^f *Gregory 5ths.* that did proportion them after this manner.

Episcop.

	l.	s.	d.
<i>Cart.</i> — —	07	18	00
<i>London.</i> — —	10	10	00
<i>Roffensis</i> — —	05	10	00
<i>Norwicensis</i> — —	21	00	00
<i>Eliensis</i> — —	05	00	00
<i>Lincolniensis</i> — —	42	00	00
<i>Cicestrensis</i> — —	08	00	00
<i>Winton.</i> — —	17	06	08

Episcop.

	l.	s.	d.
<i>Exonienfis</i> — —	09	05	00
<i>Wigorniensis</i> — —	10	05	00
<i>Herefordens.</i> — —	06	00	00
<i>Bathon.</i> — —	12	00	00
<i>Sarisper.</i> — —	17	00	00
<i>Coventrensis</i> — —	10	00	00
<i>Eborac.</i> — —	11	10	00

^c 25. Hen. 8.
cap. 21.

^d Hist. Concil.
Trident lib. 5.

^e Fox Acts
Monuments
in Edw. 2.

^f Vide Concil.
Spelm. p. 313.

Dat. apud *Vrbem Veterem* x. Kalend. *Maii*, Pontifica-tus nostri anno secundo.

g Florent.
 Wigorn.
 Ann. 1109.
 p. 482. &c. alii.
 b Remigius
 circum Ann.
 1080. trans-
 stitit sedem
 Episcopalem
 de Dorcestera
 Lincoln. &
 Herebertus
 circa 1086. de
 Theffordia,
 Norwiche.
 Malmsbur. de
 Pont.
 i Cap. 3. n. 50.
 k Vitæ Abbat.
 p. 140, 27.
 Hist. major.
 pag. 414, 26.
 l Ann. 1191.
 col. 663. 6.

m Mat. Paris
 Ann. 1226.
 pag. 328, 13.
 n Ordericus
 Vitalis pag.
 846. c.

o Mat. Paris
 Additament.
 MS. ubi sup-
 pra, cap. 3.
 n. 66.

But this could not be the Bull of *Gregory* the 5. who dyed about 997. before *Ely* was erected, or Episcopall chaires placed in ^b *Lincoln* or *Norwich*.

7. The last article in the oath prescribed the Clergy from the Pope, of obedience to him, was, not any way to alienate the possessions of their houses *inconsulito Romano Pontifice*. Whether this clause were inserted when 1115, it was first required of ⁱ *Raulf* th' Archbishop of *Cant.* I have not been able to certify my self; and am apt to believe it was not: for though we find it in ^k *Math. Paris*, when it was first imposed on Abbots and Bishops, yet that was after the Court of *Rome* had tasted the sweetnesse of taxing other Churches; neither is it in any of those conditions mentioned by ^l *Diceto*. But when ever it came in, it implying a right of alienating the possessions of Religious houses and Churches, with the Papall licence, bred an opinion, that without his assent there could be no good sale made of their estates, by any temporall or spirituall power whatsoever, though with their own concurrence: and the Court of *Rome* grew to maintain, ^m That being a Mother, she ought to be relieved by her Children. ⁿ *Gelasius* the second in his distresse 1118, is said to have desired à Normannica Ecclesia subsidium orationum, & magis pecuniarum: yet certainly the Norman Church did not then at all condescend to any; for the French Agent in the ^o *Lugubri querimonia* (of which before) mentions him amongst divers others who, expell'd Italy, fled into France for succour, yet, non in aliquo gravaverunt Ecclesiam Gallicanam, nec dando beneficia, nec petendo subsidium pecuniae vel armorum, sed spiritualibus armis, scilicet lacrymis & orationibus, que sunt arma ministrorum Christi, maluerunt esse contenti, &c. So that certainly if any collection were made for *Gelasius*, it was so private, publick notice was not taken of it.

8. The first extraordinary contribution raised by allowance

allowance for the Popes use in this Kingdome, I take not to have been before 1183. when *Lucius 3^{us.}* at odds with the Citizens of *Rome*, not any ways able to resist their fury, sent to *Henry the 2. postulans ab eo & à clericatu Angliæ auxilium*. The thing was taken into consideration, and for the precedent, it was not thought fit any thing should be given as from the Clergy, but that they might raise a supply amongst themselves for the King, without permitting a forraign Agent to intermeddle; and his Majesty might with that relieve the Pope as he should see occasion. But take in the Historian his own words. *p Consuluit Rex Episcopos suos & clerum Angliæ de petitione summi Pontificis: cui Episcopus & Clerus consuluerunt, ut ipse secundum voluntatem suam & honorem faceret auxilium Domino Papæ, tam pro se quam illis; quia tolerabilius esset, & plus placeret eis, quod Dominus Rex, si vellet, accepisset ab eis recompensationem auxilii illius, quam si permisisset nuncios Domini Papæ in Angliam venire, ad capiendum de iis auxilium; quia si alter fieret, posset verti in consuetudinem, ad detrimentum regni. Adquievit Rex consilio eorum, & fecit auxilium magnum Domino Papæ in auro & argento.* The judicious reader may observe hence things very remarkable: as, that the King did in points concerned the Pope consult with the English Church, and followed their advise; the great care the Clergy took to avoid any sinister consequence in future, and therefore did themselves give to the Prince, as to whom it was due from them, and not to the Pope, who by custome might come to claim it: as indeed he did after step so far, as to prohibit their giving the King at all, without *q* his license, endeavouring the gaining a supremacy over them as well in Temporalls as Spiritualls, who hitherto had not meddled with collections of that nature.

For the *r* same *Henry*, about 17 years before, (after th' example of the *French*) did cause a supply be made for.

p Hoveden Ann. 1183. fol. 354.b.43.

q De immunitate Ecclesie in Sexio cap. 3. vid. Knighton col. 2489, 37.

r Gervas. Dorobert. Ann. 1166. col. 1399, 7.

for the relief of the Eastern Church ; but I do not find it to have been either upon any motion from *Rome*, or any part of what was so levyed to have been converted that way.

9. But the former granted 1183. passing with so great circumspection , perswaded the Popes not to think fit sodainly (as it seems) of attempting the like; yet that the Church of *England* might not be unaccustomed to paiments , they sometimes exhorted Christians to the subvention of the *Holy Land*, and thereupon did distribute Spirituall Indulgences (which cost them

*s Newbri-
genis lib. 3.*

cap. 21, 22, 23,

&c. Hoved.

Ann. 1187.

fol. 363. b. &

sequentiibus.

*Ger. Doro-
bern. c. 1522.*

11.

t Mat. Paris

Ann. 1201.

pag. 205, 54.

Ann. 1202.

pag. 203, 12.

u Mat. Paris

Ann. 1206.

pag. 214, 33.

x Mat. Paris

p. 224, 25.

y Mat. Paris

pag. 361, 2,

49. pag. 362,

9.

not a farthing) and procured Princes to impose on their Subjects for that end : so did *s Clement* the 3. or rather *Gregory* the 8th. about 1187. stir up *Hen. the 2.* and *Philip Augustus* , *t Innocentius* 3. King *John*: and, as a generall Superintendent over the Clergy , did then intromit himself and his Agents in the raising of it, and so did convert some good proportion to his own use; insomuch as *Iohannes Ferentinus*, sent hither 1206. from the same *Innocentius* 3^{us}, " carried hence a good quantity ; upon which King *John* writ unto the Pope 1207. ** quod ubiores sibi fructus proveniant de regno Angliae*, *quam de omnibus regionibus citra Alpes constitutis*, &c. Yet truly, to raise any considerable summe of mony from the whole body of the Clergy , for support of the Papall designs , I do not find any great attempt before *Gregory* the 1^{ix}. 1229. *y* demanded a tenth of the moveables, of both Lay and Ecclesiasticks: to which the Temporall Lords would not at all assent , *Nolentes Baronias vel laicas possessiones Romanae Ecclesiae obligare*; and the Clergy were unwillingly induced to the contribution. The Pope thus entred , meddled no more with the Lay,

z Mat. Paris

Ann. 1240.

pag. 526, 20.

a Pag. 534, 8,

39.

but of *z* the Clergy eleven years after he demanded by his Legat a *fifth* part of their goods. Many meetings were had about it : *a* they shewed the King, they held their Baronies of him , and could not without his assent charge

charge them ; that having formerly given a tenth , this of a fifth might create a custome : and at a meeting in Barkshire exhibited sundry solid reasons (too long to be here repeated) against the contribution. But nothing would serve ; the King made for it , and th' Archbishop out of private ends paying it , they were in the end forced to yield such a supply , as at his departure the year following it was say'd , ^b there did not remain so much treasure in the Kingdome , as he had in three years extorted from it (the vessels and ornaments of Churches excepted.)

^b Mat. Paris
Ann. 1241.
pag. 549, 21.

10. But neither the paying it with so great reluctance , nor the ^c Remonstrance prefer'd in the Councell of Lions 1245 . from the body of the Kingdome , of the severall exactions the Nation lay under from Rome , and likewise ^d to the Pope himself the year following , could any way stop the proceedings ; but Innocentius 4th 1246 , ^e invented a new way , to charge every Religious house with finding and paying a quantity of souldiers for his service in the wars for one year : which being required from both the English and French , produced here those prohibitions in the same Author against raising any Tallagium or auxilium . But the French caused their Agent to use a serious expostulation in the businesse ; which , because it is not printed , I shall deliver at large as I f find it . *Nuncii de novo accesserunt , nova gravamina addentes supradictis : Nuper enim mandatis Ecclesiis , ut quia persecutor vester ad partes istas venturus est , mittant vobis militiam munitam ad resistendum ei , quia non est concilium cedere venienti ; super quo satis excusabiles sunt Ecclesiae , quia non habent militiam , nec est in parte eorum mittere quod non habent , quos etiamsi haberent & mitterent , non est tutum confidere de ipsis . Nec scitur etiam de illis , utrum venturus sit , quia etiamsi veniret , preferendum esset (ut videretur) concilio humano concilium Domini , qui dicit , Si persecuti fuerint vos in unam civitatem , fugite in aliam , &c.* And in the same year he ^g attempted the

^c Apud Mat.
Paris p. 666,
51.

^d Apud Mat.
Paris Anno
1246 , p. 698 ,
40, 51 , &c.
^e Ibid. pag.
701 , 56.
pag. 707 , 30.
pag. 708 .

^f In Lugubri
querimoniâ
Additamem.
Mat. Paris
MS. de qua
supra , cap. 3 .
n. 59, 67.
^g Mat. Paris
Ann. 1246 .
pag. 707 , 2 .
ut si clericis
ex tunc de-
cederet inter-
status , ejus-
dem bona in
usus Domini
Papæ con-
venerentur .

i. Mat. Paris
p. 730, 16.

i. Ibid. Ann.
1246. p. 715,
16.

h Rot. Parl.
50. Ed. 3.
n. 107.

making himself heir to any Clerk that should die intestate ; and the year ∴ following received from the Clergy eleven thousand marks , exceptis exemptis & tribus clericis , as an addition to six thousand he had received the ∴ year before.

11. I shall not here take upon me to repeat all the times and wayes by which the subject had his purse thus drained , the labour would be too great , and the profit too little : it shall suffice to note , the Court of Rome , by much strugling , overcame in the end all difficulties , & did arrive to that height , the ^h Commons were forced in Parliament 1376. to prefer this petition : *Si iost come le Pape voet avoir monoye pur maintenir ses guerres de Lombardy , ou ailleurs pur despendere , ou pur rauison auscuns de ses amys prisoners Fraunceys prises par Englois , il voet avoir subsidie de Clergie d'Engleterre ; & tantoft celuy est grantez par les Prelats , a cause qe les Evesques n'osent luy contrefestre , & est leve de Clergie sans lour assent ent avoir devant : Et les Seculiers Seigneurs my preignent garde , ne ne font face coment le Clergie est destruict , & la monoye de Royalme malement emportie.*

12. And indeed the Kingdome had great reason thus to complain : see one of many examples that may be alledged . In the year 1343 , the 17. Ed. 3. Clement the 6. sent hither to provide for two Cardinall Priests , one out of the Province of York , the other Canterbury , in spirituall livings , to the value of 1000. marks a piece , *i sur une se generale & coverte maniere , qe la somme passera dix mille marges avant qe le doun soit accept.* But the State would not endure this , ¹ but chasing their Agents out of the Kingdome , the King sent through every County , *Ne quis ab eo tempore & deinceps admittere per bullam , sine speciali licentia Regis :* And a little after , the Parliament held the 20. of Ed. 3. 1346. the Commons yet more plainly , ^m *Nous ne voulons souffrir qe payement soit fait as Cardinalx , pour lour demoere en France*

i Rot. Parl.
17. Ed. 3.
n. 59.
A Walsing.
Hist. p. 150,
20.
1 Hen. Knighton col. 2583,
50.

m Rot. Parl.
20. Ed. 3. n. 33.
n. 35.

France de treter, &c. And soon after they represent this very particular of 2000. marks to be *en anientissement de la terre*, and *encrese de nos enemies*; and therefore qu'ils ne soient en nul maniere soefferts, &c. In both which his Matie gives them content.

13. Neither did the Papacy, having gained the possession (as I may term it) of taxing, impose these payments for one year onely upon forreign Churches, as at first, but for six successively one after the other. So did John the 21. in the year 1277. and Clement the 5. in the Councell of Vienna 1311. pretending an employment against the Infidells; but procuring Princes to joyn with them in the collecting, that it might be pay'd with more facility, (and therefore gave them either the whole, or part of what was so raised; from whence no doubt grew that proverb so full of infamy, *That the King and Pope were the Lion and Wolf*) did in the end (as we have heard) convert the treasure to the ransoming their friends, the maintenance of their wars, and such like mundane ends. The French affirm, the first of their Kings who shared with Rome in these levies, to have been *Charls le Bel*, about 1326. which if it were, our Kings were before them; but such as succeeded knew there as well as elsewhere, how to apply what was thus gather'd wholly to themselves, wiping the Popes clean out: and notwithstanding all complaints in that kind from Rome, *Dzarenus* observes the Crown of France to have none more certain or speedy revenue, then that is thus raised of the Ecclesiasticks.

14. But these exactions grew so burthensome, Martin in the 5th. at the Councell of Constance 1417. was constrained to establish, *Nullatenus imponantur generaliter super totum clerum, nisi ex magna & ardua causa, & utilitate universalem Ecclesiam concernente, & de consilio & consensu & subscriptione fratrum nostrorum, sanctae Romane Ecclesie Cardinalium & Praelatorum, quorum con-*

^a Wm.
Thorne col.
1926, 27.
^b Walsh.
Hist p.73, 30.

^c Vide Mat.
Paris Anno
1252. p.8+9,
12.

^d Ibid. Anno
1255. p.217.
39.

^e Chronicon de
Regibus Frax-
corum ad fi-
nem Pauli
Æmilii,
Ann. 1326.
& du Tillet
in Chronicis.

^f Vide Hist. del
Concil. Trident.
in 4^{to}, lib. 5.
p. 408.

^g De benefi-
ciis lib.7. c. 1.
in fine.

^h Concil. Con-
stant. Ses. 43.
de Decimis
& aliis one-
ribus: concil.
gen. Rome,
pag. 279. &
pag. 297.

^y Herbert.
Hist. Hen. S.
pag. 57. p. 59.
^z Bullæ five
Epistole Leo-
nis de eadem
re, quas vidi
manuscr.

^s 26. Hen. S.
cap. 3.

filium commode haberi poterit; nec specialiter in aliquo regno vel provincia, in consultis prælatis ipsius regni vel provinciae, &c. Upon which Decree a supply of the Tenth being ^y twice demanded, *viz.* 1515, and 1518. by *Leo the xth.* against the *Turk*, th' English Clergy denyed them both times. Thus the Papacy by little and little gained in *England* the power of sometimes laying that Tax on Church-men, is to this day known by the name of a *Tenth*, which became limited, as we have seen; and after by ^z statute the 26. Hen. 8th. transfer'd to the King to be pay'd annually unto him; as were likewise the *First fruits* or profits of one year, commonly called *Annats*, (for I take them to be the same) of all spirituall livings: of which a word.

15. The first raising of them seemeth to have been, that when the Court of *Rome* did confer on Clerks and Chaplains residing with them, benefices in the Dioceses of others, they who thus obtained from that Chair not onely the Spirituall, of Ordination, but likewise the Temporall of Profit, did at first, either to shew their gratitude, or for that the Pope would have it so, voluntarily give the whole, or some part of the first years revenue to the Court, by whose favour they received all: and the Papacy perceiving the gain did thus accrue, laboured to extend it farther; was in some sort imitated by other Bishops; and for avoyding the shew of Simony, cover'd

* *Minuta servitia* were small pa-
mens, such as had any expe-
dition in the Court of Rome were lyable unto, as fees to certain Officers or servans of the Pope, called therefore familiates Dni. Pa-
pæ: as of late, such as renewed leases of the Archbishop of Cant. did to his Secretaries, and others of his retinue. 1389. there was payed 4 of these to the Pope, and one to the dependents on the Cardinals. Thorn col. 2194. 31. the rest have no difficulty. a Lib. 4. Epist. 44. Inditt. 13.

others

others did in this kind, is not necessary to that I treat of; but upon the practice of the Church of Rome, the 25. Ed. 3. the Commons ^b exhibit this petition to the King: *Prie sa Commune, &c. de veer & regarder, &c. Coment le Pape ne soloit avant ces heures faire reservations de nul benefice de saint Esglise, si l' ne fust de benefice de ses Chappelyns, ou de ses Clerks qe moreront en la Court de Rome; & ore tard & de novel pur covetise d'avoir les primers fruites, & les autres profitz qe endependent, ad reservee & reserve de jour en autre a sa collation generalement & especialment, si bien Abbeies & Priories, come toutz les autres grantz beneficez d'Engleterre qe sont de Patronage espiritel, & generalement il ad' reservee ore tard toutes les dignites d'Engleterre, & Provendres en Esglises Cathedralles, & les donne si bien as Aliens come as Denezeins, & isint ad le Papet toutz les primers fruites des dits benefices.* By which it appeares, the Papacy, that formerly took the first-fruits of onely such livings as men dyed possest of in the Court of Rome, had an intent of extending them to all were de Patronage espiritel: but whether an active King stopt upon this the endeavours of that See, or the Popes, wise men, thought it not fit to make too sodain an irruption into the profits of other Churches, is not greatly materiall; ^c but 25. years after, the Commons again represent the Popes Collector, *Ore de novel cest an & ne le prest unges devant al oeps du Pape les primiers fruitz de chescun benefice, dont il fait provision ou collation, except de graces grantez aux povres, ou il ne soleit prendre nulles fruites fors qe soulement des beneficez vacantz en la Court de Rome.*

16. But in whose time these first-fruits began to be taken, there seems to me some difference amongst writers. *Theodoricus à Nzem* (wholived in the Court of Rome, Secretary as some write to *Gregory the xi.* or rather, as it seems to me, of *Urban the vi.*) ^d sayes, *Boniface the ix. circa decimum annum sui regiminis, viz. 1399.*

^b Rot. Parl.
ottav. Purif.
25. Ed. 3. n. 13.

^c Rot. Parl.
50. Ed. 3.
n. 109.

^d De schismate
inter Urbani-
num & Cœc.
lib. 2. cap. 9.

primos fructus urius anni omnium Ecclesiarum Cathedr. 1.
 llium & Abbatiarum vacantium sua cameræ reservavit,
 ita quod quicunque extunc per cum promoveri voluit, ante
 omnia cogebatur solvere primos fructus ecclesiae, vel mo-
 nasterii cui præfici voluit, &c. With whom ^e Platina
 agrees; *Annatarum usum primus imposuit, (Bonifa-*
ciius ix.) hac conditione, ut qui beneficium consequere-
 tur, dimidium annui proventus fisco Apostolico persolve-
 rent: sunt tamen qui hoc inventum Iohanni xxii. ascri-
 bunt, &c. The same likewise ^f Polidore Virgil affirms,
 though he speak as if some thought them of an higher
 time, which under favour I do not credit; for ^g Nicho-
 laus Clemanges, in the treatise he writ concerning them,
 saith, that when such reservations fell into considera-
 tion in the Councell of Constance (he lived whilst it
 fate) no beginning could be assigned before Iohn the xxii.
 began them, *pro certo passagio ultramarino, & quibus-*
dam aliis necessitatibus suis. To which I may adde the
 opinion of the wise and learned ^h Cardinall d'Offat:
Ichan xxii. François de nation, dont il me deplaist, fust le
primier que outre les taxes & Annates qu'il inventa, &c.

^f De invent.
 rerum lib. 8.
 cap. 2.

^g Tract. de
 Annatis non
 solvendis, in
 fasciculo re-
 rum expetend.
 & fugiend.
 fol. 189. Et
 inter opera ejus
 pag. 82. col. 2.

^h Epist. 296.
 Rome 22 De-
 cembr. 1601.

ⁱ Polychron.
 lib. 7. cap. 42.
 apud Hen.
 Knighton
 col. 2534, 8.

^k col. 2565,
 47.

^l Hist. Anno
 1316. p. 84,
 45.

* De prebendis
 & dignitatis-
 bus cap. 11.
 extravagant.
 Commun.

And Ranulphus Cestrensis, one of that time, ⁱ saith
 of him, *Beneficiorum per mortem seu resignationem va-*
cantium, sive per translationem, primos fructus reser-
vavit, ita ut Rector institutus taxationem beneficii sui
aut residuum taxationis acceptaret: ex qua cautela innu-
merabiles thesauri ad manus Papæ devenerunt, &c. and
 Knighton himself, ^k reservavit curia omnes primos fructus
 vacantium Ecclesiarum, sive per mortem sive per re-
 signationem, &c. ^l Walsingham 1316. Summus Ponti-
 fex reservavit cameræ sua primos fructus beneficiorum
 omnium in Anglia per triennium vacantium: which not
 occurring of any Pope before, I cannot ascribe other
 to have begun them then he; who though, in a ^{*} bull
 dated the 5. January 4. Pontificatus, he mention *Fructus*
redditus, proventus, primi anni beneficiorum, yet by the
 doubts

doubts he there resolves, shews the practice of them then newly brought into the Church. But whereas the ^m writers before-named agree, the English, of all Nations, never received in this the full extent of the Papall commands, I conceive it to arise from the good Laws they made against them : of which before, and after.

17. It is hardly credible how great a masse of treasure was by these wayes sent hence into *Italy*. ⁿ The re-venues th' *Italians* were possest of in *England* 1245. are accounted not lesse then 60. thousand Marks; ^o 1252. it was thought they did amount to 70. thousand (all which for the most drained thither:) and in ^p the Parliament held about an hundred years after, the Commons shew, what went hence to the Court of Rome, *tourne a plus grand destruction du Royalme ge toute la guerre nostre Seigr. le Roy*: yet, notwithstanding so many statutes as were made by that Prince, for moderating the excesses in this kind, the 50th. they complain, (I shall give it contractedly) ^q the Popes collector here ^q *Ros. Parl.* held a receipt equall to a Prince or Duke; sent annually ^{so. Ed. 3.} ^{n. 105. 106.} to Rome from the Clergy, for Procuration of Albeys, Priories, First-fruits, &c. xx. thousand Marks, some years more others lesse, and to Cardinalls and other Clerks beneficed in *England* as much, besides what was conveyed to English Clerks remaining there to sollicite the affairs of the Nation: upon which they desire his Maj^y, no collector of the Pope may reside in *England*.

18. But the King, as it seems, not greatly complying with their desires, the ^r year following they again instance, that certain Cardinalls, notorious enemies, had procured a clause d'anteferri to certain benefices, within the Provinces of Canterbury and York; that the Popes Collector was as very an enemy to this State as the French themselves; that his house-keeping here at the Clergies cost was not lesse then 300^{l.} by the year; that he sent annually

^m Cle-
manges, Pla-
tina, Polidor.

ⁿ Mat. Paris
Ann. 1245.

^o pag. 658, 49.
^p pag. 667, 36.
^o *Ibid.* pag.
859, 48.

^p *Ros. Parl.*
Ostat. purif.
25. Ed. 3.
ⁿ n. 13. tent.
Ann. 1351.

^q *Ros. Parl.*
51. Ed. 3.
^{n. 78, 79.}

* a la foiz
xx. Mill.
marcs; a la
foiz xx. Mill.
lib.

nually from hence beyond Seas * at one time 20 thousand marks, sometimes 20. thousand pounds; and what was worse, espyed the secrets of the Kingdome, vacations of benefices, and so dayly made the certainty known to the said Court; did now raise for the Pope the first-fruits of all dignities and other smaller promotions, causing by oath to pay the true value of them, surmounting the rate they were formerly taxed it: Which now in the very beginning ought to be crufht, &c. Upon which considerations they desire, all strangers, Clerks and others (excepting Knights, Esquires, Merchants, Artificers) might sodainly avoid the Kingdom; no subjects, without the Kings expressel licence, to be Proctors, Atorneys, Fermors to any such Alyens, under the pain, after Proclamation made, of life, member, losse of lands and goods, and to be dealt with as theeves and robbers; no mony during the wars to be transported out of the Kingdom by exchange or otherwise, on the forfeiture of it. But to this the answer onely was, *Se tiegnent les estatutz & ordonances ent faites.* Whereupon the next Parliament the Commons prefer'd again three Petitions, touching I. The paiment of * First-fruits taken come due a la chambre nostre saint Pere, yet not used in the Realme before these times, was contrary to former treaties with the Pope, &c. II. Reservations of benefices. III. By that way bestowing them on Alyens, who sundry times employed the profits of them towards the rausoming or araying their friends, enemies to the King. Of all which they desire his Maj. to provide remedy; as also that the Petitions the two last Parliaments (of which before) might be consider'd, and convenient remedy ordained. To which the answer is, *Les Seigrs du grand conseil ordeigneront due remedie sur les matires comprises en ces trois billes precedentes.* And here I take the grand Councell to be the Privy Councell, not the Lords in or out of Parliament; called the *grand Councell* for the greatnessse of the affairs fell within their cognizance, and

¹ Rot. Parl.
¹ Ric. 2.
n. 66, 67. 68.
* What each
Bishop paied
to the See of
Rome at his
entrance for
First-fruits,
vide God-
win. Catal.
in fine unius
cujusque
Episcopatus.

and named the 5. of Hen. the 4. to consist onely of ^{t Rot. Parl. 5.}
six Bishops, one Duke, two Earls, and other in allto ^{Hen. 4. n. 37.}
the number of 22. ^{vide 10. Ric.}

19. What order they establisht, I have not met with; it is manifest not to have been such as gave the satisfaction hoped for, by the Commons ^u renewing in ef-
fect both 3^o. and 5^o. Ric. 2. the same suites: and the in-
conveniences still continuing, ^x in the year 138^o.

10. Ric. 2. William Weld was chosen Abbot of S. Au-
gustins (in the place of Michael newly dead,) who trou-
bled with a quartan ague, the French and Dutch on
the seas, the King inhibited his going to Rome for con-
firmation, &c. He thereupon employs William Thorne,
(from whose pen we have the relation) hoping to be
excused himself of the journey; who ∵ shewing the suf-
ferings of the house, the miserable state he must leave it
in, that he would expose it *irrecuperabili casui & ruinae*,
that the King had commanded his stay, was in the end
told by the Pope (after all means he could use) ∵ Rex ^{∴ col. 218,}
tuis præcipit quod non veniat electus ille, Ego volo quod ^{62.}
compareat & examini se subjiciat: and again, after yet
more earnest sollicitation, *quia audivimus turbationem*
inter Regem & Barones suos, (the fittest time to contest
with a prince) & *multa sinistra de persona electi, &*
quod cederet Romana ecclesia in ^{∴ cap. 3. n.}
præjudicium, absque ^{13, 14.}
personali comparitione non intendimus ipsum confirmare,
ne daretur posteris in exemplum. The cause hanging three
years in suspense, the Abbot in fine was forced to appear
in Rome for his benediction, and returned with it not to
his house till about the end of March 1389. the 12. Ric.
2. After which, the next y Parliament obtained the sta-
tute of *Premunire*, against the Popes conferring any Be-
nefice within the said Kingdome from the 29 of January
then ensuing; and no person to send or bring any sum-
mons, or sentence of excommunication against any for the
execution of the same law, on the pain of being arrested, put

in prison, forfeiture of his lands, tenements &c. and incurring the pain of life, member, &c. The intent of which law ∵ Polidor Virgil rightly interprets to have been, a confining the Papall authority within the Ocean, and for the frequent exactions of Rome, ut nulli mortalium deinceps licet pro quavis causa agere apud Romanum Pontificem; ut quispiam in Anglia ejus autoritate impius religionisque hostis publice declararetur, neve exequitabile mandatum si quod ab illo haberet, &c. To which

.. 16. Ric. 2. law three years after some other ∵ additions were made:
Cap. 5. and none of these were ever repealed by Queen Mary, who though she did admit a union with the Church of

.. 1. & 2. P. & M.c. 8. see Cook Inst. 3. pag. 127. yet in restoring the Popes Supremacy the State used to ∵ great caution, as it ever seemed to me rather a verball then reall admission of his authority; which it seems her Majesty well understood, in that she would

.. Catholick Divine his answerto Sr. Ed. Cook, cap. 12. n. 37. 49. pag. 305, 311. that I have said doth enough shew the Papall care, in suffering nothing, they could stop, might any way prejudice that See. And for the Bishops passing the 16 Ric. 2. presed by the Temporalty, it is so much otherwise, as that Statute is enrolled on the desire of the Archbishop of Canterbury, Rot. Parl. 16. Ric. 2. numero 20. in fine.

20. In the same Parliament, the Commons, as it seems, much exasperated against the Popes collectour, do yet farther ^z petition, he may have the warning of fourty daies given him to be gone out of the kingdome, sur peine d'estre pris come enemy du Roy & ranceone; & qe desore en avant nul collectour soit demeourant deinz le Royalme d'Engleterre, s'il ne soit lige du Roy, & qe mesme cestuiface nul rien a contraire de l'estatute de Provisors fait en cest present Parlement, sur peine de vie & de membre,

sanx

^z Rot. Parl.

13. Ric. 2. n.

43:

sanz perdon, considerant les meschies & damages qe les Collectours estrange's ount faitz deinz le Roy alme devant ces heures. But to this the answer only is, *Le Roy s' advisera.*

21. After these petitions and laws, however they sufficiently barr'd the Court of *Rome* from meddling with this Church, and enough shewed the right of the Kingdome in reforming of it self, and redressing all inconveniences came unto it from beyond sea; yet the King having a power of dispensing with those statutes, this mischief ensued: divers who easily obtained letters of provision to a good benefice from the Papacy, sued to the King (who held fair correspondency with the Popes) that they might put his bulls in execution; who delayed his concessions sometimes a year or longer, after the vacation of the living, during which the Ordinary had admitted some able person into the place, who then began to be disturbed: for prevention of which, the ^a statutes of 7. Hen. 4. and 3. Hen. 5. were made, that no licence should be available against any possesse of a living at the day of the date thereof, and farther to make void all so granted. After ∵ which the contract, too long to be here inserted, between *Martin* the 5. and the *English Church*, for settling severall disputes of Ecclesiastick cognizance, as of uniting benefices, consolidations, &c. was concluded; in which the Papacy seems to permit such particulars to the *English Clergy*, as they would not be restrained in, though formerly claimed not to be exercised but by his auctiority. Yet the 8. Hen. 5. n. 10. the Commons petition, *qe nul persone, de quel estat ou condition qu'il soit, ne amesne &c. hors du Royalme d' Engletorre---- or ne argent pour marchandise de seinte Esglise, ou autre grace ou privilege d' seinte Esglise avoir, ne pour autre cause queconque, &c.*

^a 7 Hen. 4.
cap. 8. 3 Hen.
5. cap. 4.

∴ Concor-
data inter
Martinum 5.
& *Ecclesiam*
Anglicanam
*in Aliis publi-
cis Archiepisc.
& in Biblio-
theca Cotton.
Manuscr.*

22. It would be here tedious, and not greatly pertinent, to repeat all the provisions made in this kind, for the well-governing the Clergy of this Kingdome, and preserving of them free of destruction from abroad;

which yet were never such, but the Pope and his officers did export a great quantity of treasure from them. *William Thorne* hath recorded the disbursements to the Court of Rome at the election of *Michael Abbot of Saint Augustine* 1375. not to have been lesse then 42*8*.-17*.-10*.***. beside the expence of such as were sent, and what was paid for the loan of mony to make these payments, *viz.* 130*1*.-18*.-2*.***. Our Historians *b* observe, in the Parliament held 1532. 23 Hen. 8. it was computed, the Papacy had received out of *England* for only the Investitures of Bishopricks, in the fourty years last past, an hundred and sixty thousand pound sterlinc, which is four thousand pound by the year: an incredible summe, considering the poverty of the Realm for lack of silver, the weight of the mony then currant, and the strict laws of former Princes against such like transportations.**

23. Thus having shew'd the beginning of the Papall auctority with us, and how from the generall power all Bishops received from *Christ*, and the fatherly care such as were instrumentall in the conversion of a people did carry to them as their spirituall children, and the obedience they likewise yielded to their ghostly fathers, the Pope began by steps (as I may say) to exercise a dominion over the Clergy here, and not stopping there, upon various pretences, by severall waies, and (as it appears) degrees, to become so far lord of their Temporalls, that they might not dispose of them, well, contrary to his liking, because he had the sole rule of all committed to him from *Christ*: the first point I conceive sufficiently proved, *viz.* that what was gained thus by great industry, at sundry times, by severall means, could no way speak his superintendency over this Church *jure divino*.

The second point remains, whether our Princes, by the advise of their Clergy, had not auctority to cause them reform this Church, without any new assumption of power, not formerly invested in the Crown: which:

*b Antiquitat. eccles. Britann. in vita Crammeri pag. 38*1. 2. edit. 1572.* Hall 24 Hen. 8. fol. cciiii. a. Herb in Hen. 8. p. 330.*

which leads me to shew what the Regall power *in sacris* was here held to be, before *Hen. the 8.* and *Rome* divided each from other.

C H A P. V.

*How far the Regall power did extend
it self in matters ecclesiastical.*

I. **B**efore I enter into the dispute of the right the kings of *England* did exercise in the regiment of this Church, I hold it not unnecessary to see, in what Divines hold ecclesiastick authority doth consist. ^a *Bellarmino*, ^b *Turrecremata* and others divide spirituall power into *Ordinis*, which they refer to the administration of the Sacraments; and *Iurisdictionis*, which they hold double, *internall*, where the Divine by persuasions, wholesome instructions, ghostly counsell, and the like, so convinces the inward conscience, as it is wholly obedient to his dictates, such as those of St. Peter were *Acts ii. 37.* and *externall*, where the Church *in foro exteriori* compells the Christians obedience. Now for the first and second of these, the King did not take upon him at all to meddle; for he neither assumed to himself a power of preaching, teaching, binding, or loosing *in foro anima*, administering the holy Sacraments, conferring Orders, nor to any particular is properly annexed to them; only to such things as are of the outward policy of the Church, as that God may be truly served, such as transgresse the received lawfull constitutions even of the Church, fitly punished, by the right of his Crown, the continued practice of his Ancestours, he could not doubt but he might deal in, causing all others, be they Clerks or other, that offend, to suffer condigne punishment.

^a *D. Romane Pontif. lib. 4. cap. 22. §. 1.*
^b *Sum. Eccl. lib. 1. cap. 93, 96.*

2. For the better understanding how far the ecclesiastick rule of our Princes did extend, we are to know, they were never doubted to have the same within their dominions, Constantine had in the Empire; and our Bishops to have that St. Peter had in the Church. *Ego Constantini, vos Petri gladium habetis in manibus*, said King Edgar to his Clergy, in that his speech so ^e recommended to posterity. And therefore, as after the Christian magistrate began to have government, affairs of most concernment in the Church (as is ^d said) had their dependence on the Emperour, the greatest Synods called by him, and the holy men of those times did not doubt the continuing to him the title of *Pontifex maximus*, as ^e Baronius notes, *sine ulla Christianitatis labe*; and as ^f Constantine did esteem the Ecclesiasticks ^{τὰ εἰς τὴς εὐκαντίας}, but himself ^{τὰ εἰς τὸν Θεόν καὶ τὰ εἰς τὸν Πάτερνον}, them for things within, but himself for matters without by God appointed a Bishop: so the same King Edgar, ^f no lesse to be remembred by the English then Charls the Great by the French, was ^g solicitous of the Church of his Kingdome, *veluti Domini sedulus Agricola*, and *Pastorum Pastor*, was reputed and writ himself the *Vicar of Christ*, and by his ^h laws and Canons assured the world he did not in vain assume those titles, and yet *sine ulla Christianitatis labe*, so far as antiquity ever noted.

3. What particulars those were the Emperours did hold ^{τὰ εἰς τὴς εὐκαντίας}, to be without the Church, belonging as I may say to their *Episcopacy*, nothing can better teach us then their commands yet remaining in the laws they publisht; as in Cod. Theodos. de feriis, de nuptiis, &c. de fide catholica, de Episcopis eccles. & Clericis, de Monachis, de Hæreticis, de Apostatis, de religione, de episcopali iudicio, &c. Cod. Iust. lib. 1. Tit. 1. 2, 3, 4, 5. & passim in eo: and in the Novells, Novel. 6. *Quomodo oporteat episcopos & ceteros clericos ad ordinationes perduci*. Novel. 137. de ordinatione Episcoporum & Clericorum.

^c apud Ailredum col.

261, 16.

Beato Petro cuius vicem Episcopi gerunt. Capitul. carol. & Ludovic. lib. 5. cap. 1. 63.

^d Socrat. prolog. ad lib. 5. Hist.

etiam. 3. Anno 312. n. 100.

^e Euseb. de vita Constantini lib. 4. cap. 24.

^f Flor. Wigorn. Anno 974. p. 360. ^g Regularis concordia &c. notis Seldeni ad Eadmer.

pag. 146, 16.

& 155, 6, 15.

& concil.

Spelm. pag.

437. cap. 7.

pag. 438. cap.

8. vide leg.

Edwardi cap.

17.

h concil.

Spelm. à pag.

441, ad pag.

476.

rum. The prefaces to which two laws are remarkable: the first shewing the Priestly office is *Divinis ministrare*, and the Princely, *maximam habere sollicitudinem circa vera D. idogmata, & circa sacerdotum honestatem, &c.* the other beginning thus, *Si civibus leges, quarum potestatem nobis Deus pro sua in homines benignitate creditit, firmas ab omnibus custodiri ad obedientium securitatem studemus, quanto plus studi adhibere debemus circa sacerorum Canonum & divinarum legum custodiam?* And accordingly Novel. 123. in 43 chapters he did establish many particulars pertaining to the government of the Church and Churchmen; and Novel. 131. not only 1 appointed the observance of the four first generall Councils, but m decrees the place or precedency of the Pope of *Rome* and Archbishop of *Constantinople* should be according to their definitions above all other seats, and how far the Diocesses of some Chairs by him newly erected should extend, besides other points in severall chapters to the number of 15, treating of particulars solely held now of ecclesiastick cognizance; as did likewise *Charls* the Great, and *Ludovicus Pius* in their capitulars in very many places. But with these I have not took upon me farther here to meddle, then by naming some, to shew, they having been practis'd by Emperours, the Kings of *England*, endowed from above with the same authority in ecclesiasticis, might very lawfully within their dominions exercise the like: the question therefore will be, what they did understand their power in the Church to be, and accordingly how far they did extend it in use.

4. As for the first, nothing can speak more clear then what themselves publisht on mature and sad deliberation, yet remaining in their laws; in which we find the Regall office thus n described: *Rex, qui a vicarius summi Regis est, ad hoc est constitutus, ut regnum terrenum, & populum Domini, &c., super omnia, sanctam veneretur ecclesiam ejus, & rigat, & ab injuriosis defendat:* and a little

1 cap. 1.

m cap. 2, 3, 4,

See Novel..

146.

n Leg. Edw.

Confes. cap. 17.

pag. 142.

tle after, *Debet Rex Deum timere super omnia, & diligere, & mandata ejus per totum regnum suum servare;* debet etiam sanctam ecclesiam regni sui, cum omni integritate & libertate, juxta constitutiones patrum & predecessorum, servare, fovere, manutenere, regere, & contra inimicos defendere, ita ut Deus praeceteris honoretur, & praecubis semper habeatur, &c.

^o Leg. Canut.

cap. 11. pag. 109. Iorval.

capite 31.

col. 923. vide cap. 25. pag.

106. Iorval.

cap. 23.

p Leg. Ina in

prefat. pag. 1.

apud Iorval.

col. 761, 41.

* rapla

Saxon.

Canutus, ^o Nobis omni ope atque opera eritendum erit, qua potissimum ratione ea exquiramus consilia, quae ad Reipublica & pertinent utilitatem, pietatem confirmant Christianam, atque omnem funditus injustitiam evertant, &c. Iorvalensis renders it, quomodo possit — recta Christianitas propensius erigi.

Ina, ^p In magna servorum Dei frequentia religiose studbam, tum * animorum nostrorum saluti, tum communiregni nostri conservationi; which Iorvalensis reads, sollicitus de salute animarum nostrarum & de statu regni, shewing the care both of his subjects souls and bodies, however after a differing way, did in some measure pertain unto him.

5. Neither did these expressions passe only from the worst of our Kings; but from *Ina, Rex maxime pius*, as ^q Baronius stiles him; from *Canutus*, who not only himself 1031. went in devotion to *Rome*, but was acknowledged ^r erga ecclesias atque Dei servos benignissimus largitor; *Edward the Confessour*, a canonized Saint; famous for being the best Kings and holiest men: who did not only leave us in their laws the Kings part, but what they conceived likewise the Bishops was, viz. to be ^s *Dei præcones, divinjuris interpretes*, that they were rerum divinarum commoda prædicare palam, that for and to the people they should vigilare, excubare, proclaimare, &c. as those that ^t contra spirituales nequicias debent populo prævidere, by letting them know, qui *Dei præcepit* obedire neglexerit, hic cum ipso Deo commune non habeat.

And this is that sword of St. Peter mentioned by King Ed-

^q tom 9. Anno 740. n. 14.

See Hunt, fol.

194, 30, 42.

* Fubbert.

Carnotensis

epist. 97. fol.

93. a. edit.

Paris. 1608.

^s Leg. Canut.

cap. 26. pag.

106. apud

Iorval. cap.

24. col. 922,

17.

* Sequor in re-

liquis Iorva-

lensem.

Edgar, which when the holy Bishops of the primitive times did only put in execution , they neither found Princes backward in supporting their designes, nor people refractory to their exhortations. Thus we see , as they declared the office of a King, they were not silent in that of a Bishop, shewing how either laboured in his way the reducing people to piety, and a vertuous life; the one by making good laws for compelling the wicked, the other by giving such instructions as convinced the inward man.

6. So that we often meet with the Prince extending his commands to the same things the Priest did his persuasions : as

I. In point of Sacraments , " That children should be ^{u Jorval. cap.} baptiz'd within 30 days after birth. *Leg. Inæ cap. 2. pag. 1.* ^{2. col. 761.}

II. And, because it seems some Priests were negligent performers of that duty, " That such as were not prepared, or denied the baptizing of them, should be punished. *Leg. Ed. & Guthruni cap. 3. pag. 42. exceptiones Egberti cap. 10, 11, 12. in concil. Spelm. pag. 259.* where you may observe the Kings precept to impose on the transgressor the payment of 12 y ora, but the Bishops to be onely persuasive.

III. No person to be admitted to the Eucharist , bea Godfather, receive confirmation from a Bishop , not knowing the *Pater Noster* and *Belief. Canones dati sub Edgardo & legibus ejus annexi, cap. 17. 22. p. 67. & 3 Leg. Canuti cap. 22. p. 105. Spelm. Concil. cap. 22. pag. 599.*

IV. That persons instructed should receive the Communion thrice every year. ^a *Leg. Canut. cap. 19. p. 104.* ^{a Jorvalenſis cap. 21. col. 921. 57.}

V. Restrained by their laws matrimony to the 6th degree of consanguinity. ^b *Leg. Canut. cap. 7. p. 101.* ^{b Apud Jorval. cap. 11. co. 919}

VI. Reserved to themselves a liberty of dispensing with the marriage even of Nuns. ^c *Leg. Alured. cap. 8. p. 25.* And it is not to be forgot, in that particular, *Lanfrank* joyns the Kings advise / as a person of equall power) with his own, : . & hoc est, saith he, consilium Regis & nostrum. ^{c Jorval. cap. 9. col. 823.} ^{d Lanfranc. Epist. 32.}

VII. Commanded th' observance of Lent *principali auctoritate*. *Beda lib. 3. cap. 8.*

VIII. Appointed certain daies to be held festivall by the better sort, but allowed the servant and labourer to work in them. ^d *Leg. Aluredi cap. 39. pag. 33.* which the laws of *Canutus* seem after to take away. ^e *Leg. Canut. cap. 42, 43. pag. 118.* See there pag. 103. cap. 14, 16, 17. which was likewise exercised 1393. by *Richard the 2.*

I omit here their edicts for the observation of the *Lords day*, payment of *Tythes*, *Incontinency*, and such like, (held now merely of Ecclesiastick cognizance) for the multiplicity of them.

IX. Divided old, and erected new Bishopricks. *Beda lib. 3. cap. 7. lib. 4. cap. 12. lib. 5. cap. 19.*

And yet this is that ^f *Cardinall Bellarmine* holds a point of so high concernment, no man can do it without authority obtained from *Rome*: which yet we never read to have been asked, ∵ though *Theodore* 679 erected five (*consensu Regis*) at one time; and some other altogether without the Popes liking, as those in the North, after th' expulsion of *Wilfrid*. Confer *Beda lib. 4. cap. 12. cum libro 5. cap. 20.* But of this before.

X. Caused the Clergy of their Kingdome to meet in councells. *Malms. fol. 26. a. 38.* and sometimes presided themselves in them, thought the Popes Legate were present. *Concil. Spelm. pag. 292, 293. pag. 189, & passim ibid. Vita Lanfranci cap. 6. col. 1. pag. 7. Vnde Florent. Wigorn. An. 1070. pag. 434.*

7. Of the Crowns commanding in these particulars, it is apparent to have been in possession, the Pope seeing and not interrupting any whit, whilst the *Saxon* and *Dane* bare here the sway; when, to speak truth, it seems to me not so much to have been insisted on, by whose authority the thing commanded was done, as a care taken of all sides nothing should be required but just, and pious; which

^d *Iorvalensis cap. 50. col. 826, 60.*
^e *Iorval. cap. 67, 68, 69, 70, 71, 72. col. 927.*
^f *vide ibidem col. 920. cap. 17, 18, 19,*
^g *20. Thorn col. 2197, 15.*

which made each precept, without dispute, from what author soever it proceeded, be readily yielded unto: and so the *Normans* found it, under whom the first contentions (concerning jurisdiction) with the See of *Rome* began. For before *William* the first possess himself of this Crown, it is certain, the *English* Bishops had no ordinary Courts distinguish'd from the Lay, but both secular and ecclesiastick Magistrate sate and judged together, what pertained *ad observantiam religionis locis suis, & à sue diocesos synodis;* as was likewise the custome * in *France*.

8. This were enough manifest, in that we find the Lay not only present, but subscribers to many of our ancient & councils; did not the laws of ^b *Ethelstan*, ⁱ *Edgar*, ^k *Canutus* farther assure us. It is probable, inferiour judicatures did refer matters of doubt to the greater Courts or *scyngemot*, to be held twice a year, as the former edicts and ^l some Councils did establish: which produced that care in the Council of ^m *Celichyth* 816. the Bishop should transcribe judgements given in *qualicunque synodo* of what pertained to his diocese, and he to keep one copy, and the party whom it concerned another of such determination (which I take to be those laws mentioned by ⁿ *Eadmerus*, which as they were reposed in some parts of the Church, so were the pleas (as it seems) usually ^o there held.) But the Conqueror, finding these proceedings to be *non bene, neque secundum sanctorum canonum præcepta*, &c. did by his Charter make a distinction of the Courts, that such as were convened by the Bishop should answer *non secundum Hundred, sed secundum canones & episcopales leges &c.* The Charter to *Remigius* Bishop of *Lincoln* is upon record, ^p published by many, and was certainly by the Conquerour directed to every Diocese through the Kingdome: for I have seen in an hand of *Edward* the first one for

* *Carol. & Ludovic. cap. lib. 6. cap. cxii.*

^g in concil. *Spelman. passim.*

^h apud *Iorval. col. 845, 36.*

ⁱ cap. 5. p. 64. *Iorval. pag. 872, 13. cap. 10.*

^k cap. 17. pag. 3. *Iorval. cap. 38. pag. 924*

^l *Concil. cal- cuith, apud Spelman. cap. 3. pag. 293.*

^m apud *Spelman. concil. p. 320. cap. 9.*

ⁿ *Eadmerus apud Gervasi- um Dorobet- nensem, col. 1292, 18.*

^o *Apud Ger- val & Sim. Dunelm. five Turgot. de Duxelmenſi eccl'ſia lib. 3.*

^p *See it in Sr. Ed. Cook Inst. 4. cap. 53. p. 259.*

^q *in antiquo Manuſcr.*

London, testifying it was then found in the Episcopall register there.

9. When this past the King, whether at the Popes Legats being here for depositing *Stygand* 1070. (about which time Historians remember he made some beginning for settling the *English* laws, and is therefore likely to have then past this) or when they were here for settling the dispute between *York* and *Canterbury*, or at what other time, is uncertain. Yet I cannot deny, it seemeth to me to have given th' occasion of those ex-

¹ apud Baron.
tom. 2. Ann.
1071. n. 9.

pressions in ¹ Alexander the 2. his letter to him, that the world, *in maligno positus, plus solito pravis incumbat studiis; tamen inter mundi principes & rectores egregiam vestra religionis famam intelligimus, & quantum honoris sanctae Ecclesiae tum Simoniaca vires opprimendo,* (which is apparently spoken of *Stygand*) *tum catholicae libertatis usus & officia* (by which questionlesse he points at this charter) *confirmando, vestra virtus impendat, non dubia relatione cognoscimus, &c.* Now certainly, if he did grant it during the life of the Pope, it must not have been after 1073. in which year he died. I confess, I have not met with any clear example of the practice of it during the reigns of that King, or either of his children: For though *Anselme* about 1106. writes to *Henry* the first, (who had punish'd certain Clerks not observing the decrees of a Councell held at *Westminster* 1102) ¹ quod ha-
²ctenus inauditum & inusitatum in ecclesia Dei de ullo Rege
& de aliquo principe; non enim pertinet secundum legem
Dei hujusmodi culpam vindicare, nisi ad singulos episcopos
per suas parochias: yet I conceive this is to be interpreted of the King doing it alone without the Bishop, nor when they both joyned together after the manner then in use, which himself elsewhere ^u advises *Rufus* unto;
Conemur una, tu regia potestate & ego Pontificali authoritate, quatenus tale quid inde statuatur, quod cum per totum fuerit regnum divulgatum, solo etiam auditu, quicunque il-
¹ apud Eadmer. p.
25; 42.
^u apud Ead-
mer. pag. 24;
13.

lius fautor est paveat & deprimatur. I can take this for no other, but that in the laws of *x Ethelstan*, *Debent episcopi cum seculi iudicibus interesse judiciis*, ne permittant, si possint, ut aliqua pravitatum germina pullulaverint. And the laws of *y Henry the first* are expresse, the use to have *y Leg. Hen. 1. cap. 7. p. 180.* continued in his daies; for they approve the ancient institution, *That generalia Comitatuum placita certis locis & vicibus convenire debere*, That the Judges in those Courts were *Episcopi, Comites, Vicedomini, &c.* The causes they dealt in, and order of proceeding, *agantur primo debita vere Christianitatis jura, secundo Regis placita, postremo causae singulorum, &c.* And why may not *certa loca* here be what *Anselme* calls *Parochia*, the Conqueror Hundred?

10. But good laws are not alwaies suddenly put in execution; and this of the Conqueror we may take to have slept, till towards the beginning of King *Stephen's* time it had got some strength, for then we meet with plain precedents of the Ecclesiastick Courts being sever'd from the Lay. *Theobald of Canterbury* molesting the monastery of St. *Augustines* concerning certain Priviledges granted from the Papacy, th' Abbot obtained a bull from *Innocentius 2.* of the 20 November 1139. in his houses favour, in which the Pope expostulates with th' Archbishop, *z quod occasione privilegii nostri, idem monasterium vehementer infestas, & ecclesias eidem cœnobio pertinentes eundem abbatem ordinare non sines, quin potius vio- lenta dominatione ecclesias eorum firmatas diceris infregis- se, & presbyteros tuos, invito Abbate, & ejusdem loci fra- tribus, contra Romanæ ecclesiæ privilegia, quibus idem cœnobium est munitum, in eis ponere præsumpsisse: nec his contentus, abbatem ipsum, & homines ejus, ad placitan- dum super hoc in curiam tuam, prout afferunt, præsum- ptuose traxisti, eisque ob eam rem pœnam molieris inflige- re, &c.*

*Leges influi-
untur cum
promulgantur,
firmantur cum
moribus uten-
tium approban-
ting. Dist. 4.
cap. 3.*

*z Habetur hac
bulla in splen-
dido Ms. re-
posito in aula
St. Trinitatis
Cantabr. ante
200. annos ex-
arato, & in
alio Ms. opti-
me note ante
quadrinientos
annos scripto:
in Seiebario. fol. 49. b.*

11. *William Thorne*, who ^a mentions this 1139. 4. 46.

Steph. observes (which is warranted by the bull it self) *quod iste Theobaldus primo Abbatem & conventum ad causas trahere conatus est*, and is the first I have noted in which th' Ecclesiasticks alone did force men to plead in their Courts; which, as it doth prove they then had them, so we may conclude them not long to have been possest of that power: for it is altogether improbable, if that act of King *VWilliam* had been in his and his sonns time generally practic't, but some Archbishop, in above fifty years, might have attempted as much, if not to the Abbot, at least to some other; as after this the examples are frequent, of which one in the 122 epistle of *Johannes Sarisbriensis* is not unworthy the remembring. *Symporian* a Clergy-man of York, accused one *Osbert*, Arch-deacon of the same Church, before king *Stephen*, the Bishops and Lords, 1154. for making away *VWilliam* the late Archbishop of that See by poyson. A question grew, to whether Court this cause belonged. The King affirmed it to belong to the temporall, for the heynousness of the fact, and because it was first entred upon in his presence. But before the decision *Stephen* dyed, and *Henry* the 2. succeeded; *de cuius manibus* (saith my Author) *vix cum summa difficultate, in manu valida, cum indignatione Regis & omnium procerum, jam dictam causam ad examen ecclesiasticum revocavimus*; from whence it was by *Appeal* carried to *Rome*.

12. But what this *manus valida* should be, that took the case from the King, I cannot imagine: for it is undoubted, in all disputes of this nature, the Kings Courts have been ever Judges to what Court the cause did belong. *Bracton* speaks very clearly; ^b *Iudex ecclesiasticus cum prohibitionem à Rege suscepit, supersedere debet in omni casu, saltem donec constituerit in curia Regis ad quem pertineat iurisdictio: quia si Iudex Ecclesiasticus estimare posset an sua esset iurisdictio, in omni casu indifferenter procederet non obstante regia prohibitione, &c.* and 1080 *VWilliam*

^b Lib. 5. de exceptionibus cap. 15. §. 3.
fol. 412. a.

liam the first, in a ^c Councell at Illebon in Normandy , by c Concil. Ille-
th' advise of both estates, Ecclesiastick and Secular , did bon. cap. 47.
settle many particulars to belong to the cognizance of apud Orderi-
the spirituall Judge ; and concludes , that if any thing cum Vitalem
were further claimed by them , they should not enter p. 552, 554.
upon it , donec in curia Regis monstrent quod habere debeant . Neither were the Lay to molest them in the exer-
cise of ought there mentioned , Donec in curia Regis mon-
strent quod Episcopi inde habere non debeant . So in both
reserving the decision to his own Courts , of what per-
tained to each : in so much as , what that strong hand
should be , did thus take this from the King , I must pro-
fesse not to understand . And that our Kings had ever
an inspection over those Courts , is not to be doubted ,
by the Charge against Becket , in which Henry the 2. ur-
geth , ^d quod cuidam Iohanni coram ipso litiganti plenam
justitiam non exhibuit , & super hoc ad Regis praesentiam
vocatus , venire contempserit . To which th' Archbishop
answered , præfato Iohanni condignam non defuisse justiti-
am , & Iohannem non legaliter curiam suam infamasse ,
qui non super evangelium , ut moris est , sed super veterem
cantuum codicillum , quem secum tulerat , voluerit pejera-
re , &c. and for his not attending the King , to give him sa-
tisfaction in the point , pleaded th' excuse of sicknesse ;
yet for that contempt was adjudged to loose his move-
ables .

By which it is evident , th' Archbishop did then ^e ex-
act oaths of such as were called into his Court , that he
was to give an account to the King of his carriage in
it , who by his constitutions hath ever directed the man-
ner of proceedings in it . See Mat. Paris Anno 1247 . pag.
727 , 29. Anno 1246 . pag. 716 . i. But of this ^f more f n. 17 . §. xvii .
hereafter .

13. The Conqueror , though he did shew so much
compliance with the Romanist , as not to deny any thing
former Kings had acknowledged to the Papacy as due , yet
farther

^d Apud Ger.
Dorobern.
col. 1389, 57.
An' 1164.
See Rot. Parl. 48
Leicester , 2.
Hen. 5. pet.
des Coes. 5.

^e Gervas. Do-
rober. col.
1389, 42.
Hoveden,
An. 1165. fol.
283, a. 22.

^f n. 17 . §. xvii .

g Wm. Grecor. 7. inter Lanfranc.ep. 7. p. 304. & apud Baron. tom. II. An. 1079. n. 55. h Hoveden, fol. 343. a. 19. i Leg. Hen. I. cap. 5, 7. & p sim ibidem.

furtherthen g they had gone would in nothing submit unto it: and as they had by their edicts guided the ecclesiastick affaires of this kingdome , so he proceeded in his lawes, *h à ligibus sancte matris Ecclesie sumens exordium,* as did his sonne i Henry the I. How far they did conceive this their power to extend in those matters , nothing can better teach us then the lawes they and such as canie after them (princes against whom no exceptions can lye) establisht, and usages they maintained as the rights of the Kingdome , in opposition of all encroachments whatsoever.

14. To enumerate all these Priviledges (I conceive them with our auncestors better called Rights) I hold impossible, the foundation or ground upon which they are built being that power the divine wisdome hath invested the secular Magistrate with , for preservation of his Church and people in peace, against all emergencies from whomsoever proceeding ; as the Bishops of the Province of Canterbury writ to Thomas Becket 1167:

k Apud Hoveden fol. 292. b. 5.

k Rex à Domino constitutus paci providet subiectorum per omnia; ut hanc conservet Ecclesias, & commissis sibi populis, dignitates Regibus ante se debitas & exhibitas sibi vult exhiberi. And this issuing from so great auتورity , as in effect the body of all the Clergy of the realm , cannot be imagined to be other then the constant opinion of th' English Church. In what these Rights have been put in practise in opposition to Rome (of which I now treat) may in some sort be told : but to say these they are , and no other, is that I mean cannot be. So that we may say the affirmative , *these they are*, but not the negative , *others they are not*. Therefore Eadmerus will have it of the Conquerour, that *l Cuncta divina simul & humana ejus nutum expectabant*, that is *in foro exteriori*; insomuch as , when the Clergy 1530. gave the King the title of Head of the Church, they intended no otherthen their fore-fathers , when they called

l Eadmer. p. 6. 21.

called him the ^m Defender, Patron, governor, ⁿ Tutor of it.

15. Which the French do attribute to their Kings with more hard expressions; ^o Ce que monstre (says one) que les evesques de ce temps la, estimerent le Roy, assiste de son conseil d'estat, estre apres Dieu Chef terrien de l'Esglise de son Royaume, & non pas le Pape, in the negative: Which another ^p explains thus, Ce n'est point pour cela que je voulle dire, ce que aucun soult trop indistinctement profere, que les dits Roys & Princes Souveraignes soient en leurs estats privativement à tous autres, Chefs uniques & abslus de l'Esglise, & de tous les ministres d'icelle; car pour le regard de ce que concerne le maniement des choses purement sacrees, come l'administration de la parole de Dieu, & des Sacerments, & la puissance de lier ou delier, voire de regler en particulier le dedans de chacune Esglise, la surveillance en appartient aux Evesques, & autres Chefs de la Hierarchie Ecclesiastique, a chascun selon leur rang & degré. Then shewing by a comparison, that as the head-Architeet leaves to his inferior Agents the use of such instruments as are proper for their undertakings; so, il n'appartient poyn au Roy de manier les choses sacrees, ny supporter comme l'on dit l'arche d'alliance, ils doivent laisser cela a ceux de la vocation; mais ils peuvent voire sont tenuz devant Dieu, veiller sans cesse, & avoir l'oeil ouvert a ce que ceux de cest ordre & profession principale, aussi bien que ceux des autres moinaires, apportent en loyaute & saine conscience tout soin, diligence, purete, & sincerite, au maniement des charges a eux commises, conformement a leur loix, regles & canons; lesquels au cas qu'ils ferroient negligez, & effacez par la rouille de l'antiquite, ou que par la malice des hommes il fust besoign d'enfaire des noveaux, ils sont tenu user de leur puissance, pour y apporter des remedes, soit par leur Ordinances & pragmatiques, soit par leurs jugements, arrests, & executions d'iceux. C'est ce qu'en France nos predeceſſeurs ont tousjouors appelle, la police exterieure sur l'Esglise, de la quelle les Empereurs, Roys &

^m Mat Paris
An. 1241. pag.
555. 15.
ⁿ Epist. Uni-
versit. Anglie
ibid. An. 1245.
pag. 67. 58.
ibidem.
^o Claude Fau-
chet en les li-
beries de l'E-
sglise Gallicane
in 4^e. à Paris
1612. avec
Priviledge, p.
234. & 1639.
p. 179.
^p Charles le
Fay ibid. pag.
217. in edit.
1619. p. 230.

Princes ont use & jouy sans contredit, tant que l' esglise s' est conservée en sa pureté, & qu' aucunz d' icelle ne se sont ingerez, sortantz de leurs bornes & limites d' usurper les fonctions Royales. Insomuch as Benigne Miletot doth not onely affirm their Kings to be Chefs, Protecteours, & Conservateurs de leur esglise Gallicane; but pag. 657. recites a speech of th' Archbishop of Vienna made to Henry the 4. 1605. in which he did affirm, que le Roy estoit le Coeur & la Teste de l' ur corps.

16. And other Headship then this I do not know to have been ever attributed to any of our Princes: Certainly they did never take on them the exercise of any thing purely sacred, but as supream * Head, Rulers or Governours, under God, by their Commissioners (of which such as bare most sway were ever the Spirituality) to visit, reform, redresse &c. all erroours, Heresies, schisms, abuses, &c. And for that the rust of antiquity (as that authour styles it) had much over-spread the Canons of the Church, * to assigne sixteen of the Clergy, whereof four to be Bishops, and as many of the Lay, of which four to be learned in the Common laws of this realme, to perseue and examine th' ecclesiastick laws of long time here used, and to gather, order and compile such laws ecclesiastickall, as shall be thought to his Majestie, his said * Counsell, and them or the more part of them, to be practised and set forth within this realme. In pursuance of which, the 11. November 5th of Edward the 6. he nominated two Bishops, two Divines, two Doctours of the Law, two Esquires, to supervise the ecclesiastick laws of this Kingdome, and to compile such a body as were fit to be put in practise within his Dominions; whose intendments (for it past no further) were after printed by John Day 1571. and are no other then what the French (for the manner of doing) maintain their King might do: neither doth th' Inquisition of Spain publish any thing of that nature, without th' allowance of their King, as I shall shew hereafter.

q du delict
commun p.
528. edit. ionis
16. 9.

r 26. Hen. 8.
cap. 1.
1. Eliz. cap. 1.

t Stat. 3. &c. 4.
Ed. 6. cap. 11.
see before.
25. Hen. 8.
cap. 19.
27. Hen. 8.
cap. 15.
35. Hen. 8.
cap. 16.
* Councell.

viced 7. 1. 12.

17. So

17. So that, in my opinion, the question cannot be, whether Princes are not capable of such a Right; but whether it were invested in the Crown formerly, and made good by such a continued practise, as might authorise ours to take that title (when offered by the Clergy 1530.) as well as the French Kings have, without encroaching on that power th' ecclesiasticks had, and by our laws ought to exercise in *England*. Now, certain, our Kings did in many things go along with the French in causes ecclesiastical: *xRex Anglorum, exemplum accipiens ab illis Baronibus qui sua statuta sanxerunt in Francia, i. quibus & Dominus Francorum favorem jam præbuit, & sigillum apposuit, &c.* Clement the 7. being held prisoner 1527. by th' Emperour, the 18th. of *August* Cardinal *Woolsey* made an agreement with the French, for settling h' ecclesiastick government of each Kingdome during the Popes captivity. For the French, I shall remit the reader to they Deed which is printed; but th' English were to be such as should be agreed to, *prælatis accitis de mandato & auctoritate prædicti invictissimi Anglie Regis*, whose determinations were to be *consensu ejusdem invictissimi Anglie Regis*. But where ^y *my Lord Herbert* conceivs this to have been the first taste our King took in governing the Clergy, ^z I can noway be of his opinion; for, without peradventure, the Cardinall neither did nor durst have moved one step in making the Ecclesiasticks lesse depend on the Papacy, then the Common law or custome of the realm warranted, knowing he must without that back have lost not onely *Clement* the 7. but all Popes and the Court of *Rome*, which must and had been his support, on the declining favour of so heady and dangerous a Prince as *Henry* the 8th, had he not cast off both the Cardinall and his obedience to that See almost together. But how much he had the Clergy before this under his government, the History of *a Richard Hunne* is witness sufficient: and the rights the Conquerour and his successors

*x Mat. Paris
Anno 1247.
p. 727, 26.*

*y Preuves des
libertes de l'eglise
Callicane,
cap. 20 n. 33;
p. 529.*

*z Hist. Hen. 8.
p. 219.*

*a See Hall
6. Hen. 8.*

were ever in contest with the Papacy about, and maintained as the laws & customs of the Realm, enough shew they did not command th' Ecclesiasticks here according to the will of any forraign potentate, nor were meer lookerson,whilst another govern'd the English Church: some of which I shall therefore here set down.

I. They b admitted none to be taken for Pope but by the Kings appointment.

II. c None to receive letters from him without shewing them to the King, who caused all words prejudiciale to him or his crown to be renounced by the bringers, or receivers of them.

III. d Permitted no counells, but by their liking, to assemble; which gained the name of convocations; as that e alwayes hath been and ought to be assembled by the Kings writ.

IV. f Caused some to sit in them might supervise the actions, and l gato ex parte Regis & regni inhiberent, ne ibi contra Regiam coronam & dignitatem aliquid statuere attentaret: and when any did otherwise, he was forced to retract that he had done, as g did Peckham; or were h in paucis servat.e, as those of Boniface.

V. i Suffered no Synodicall decree to be offorce , but by their allowance and confirmation. k Rex auditis concilii gestis, consensum praebeuit, auctoritate regia & potestate concessit & confirmavit statuta conciliij à Gulielmo, Cantuariensi Archiepiscopo, & sancte Romane ecclesie legato, apud Westmonasterium celebrati. l In hoc concilio, amendmentem ecclesiae Anglicanæ, assensu Domini Regis & primorum omnium regni, hæc subscripta promulgata sunt capitula, &c.

VI. Permitted no Bishop to m excommunicate, or inflict any ecclesiastick censure on any Baron or Officer, nisi ejus precepto.

VII. n Caused the Bishops appear in their Courts, to give account why they excommunicated the subject.

VIII. o Caused

b Eadmer p.
6, 26. ^vide e-
pist. Hen.
Cichley in
vita ejus, edit.
1617. p. 77,
78.

c Eadmer.
ibid. ex pag.
113, 1.
Thorn, col.
2152, 1. ^v
2194, 18. ^v
alibi. Cook
Infl. 3. p. 127.
d Eadmer.
p. 24. 5. 11.
e Stat 25.
Hen. 8. cap. 19.

f Mat. Paris
Anno 1237.
p. 447, 51.
g Vide Seld.
de Synedriis
part. 1. p. 373.
h Lyndwood
de foro compe-
teniti, cap. 1.
Gloss. 1.

i Eadmer.
p. 6, 29.
k Flor. Wi-
gorn. Anno
1127. p. 505.
l Gervas.
Dorobern.
Anno 1175.
col. 1429, 18.
m Eadmer.
p. 631.

n M. Paris
Addit. ament.
p. 200 num. 7.
See Articuli
cleri 9. Ed. 2.
cap. 7.

VIII. ^o Caused such as were imprisoned, after fourty dayes standing excommunicate, to be freed by writ, without th' assent of the Prelat, or satisfaction giving; p the King and his Judges communicating with them *tam in divinis quam profanis*, q and commanding none to shun them, though by the Ordinary denounced excommunicate.

IX. ^r Suffered no Legat enter *England* but with their leave; of which before.

X. ^f Determined matters of Episcopacy, *inconsulto Romano Pontifice.*

XI. Permitted no Appeal to *Rome*; of which before.

XII. ^t Bestowed Bishopricks on such as they liked, and ^u translated Bishops from one See to another.

XIII. Erected new Bishopricks: so did *Hen. the I. 1109. Ely*, taking it out of *Lincolne*, ^x *Carlisle 1133. Out of York* or rather *Duresme*: but of this before.

XIV. ^y Commanded by writ their Bishops to residency.

XV. ^z Commanded their Bishops, by reason of Schism, vacancie of the Popedome, &c. not to seek confirmation from *Rome*, but the Metropolitan to be charged by the Kings writ to bestow it on the elected.

XVI. ^a Placed by a lay hand Clerks in Prebendary or Parochiall Churches, *Ordinariis penitus irrequisitis.* And it is not here unworthy the remembring, that *Vv'm Lyndwood*, a very learned Canonist, who writ about an 100. yeares before *Henry the 8th* difference with *Clement the 7.* finding the Crown in possession of this particular not agreeing with the rules of the Canon law, is so perplext, as in the end he finds no way to make the a^et valid, ^b but that he doth it by Papall priviledge: For if by prescription, *Episcopo siente & tolerante*, it could not be good; for though the King might confer the temporalls of the Church, *non tamen potest dare jure suo potestatem circa spiritualia, viz. circa ea que pertinent ad reg-*

^o *ibid. n. 10.*

^r *Eadmer. p. 58, 40. p.*

^{113, 1 p. 118,}

^{28.}

^f *Eadmer.*

^{p. 115, 23, 31.}

^t *Flot. Wigorn. Anno 1070. p. 536.*

^{Hunt. fol.}

^{219. a. 1.}

^u *Eadmer.*

^{p. 95. Flor.}

^{Wigorn. Anno 1109.}

^x *Johannes Hagulstad.*

^{col. 257, 48.}

^y *Vide Cook Insti. 2. p. 625.*

^z *Rot. Parl.*

^{16. March}

^{3. Hen. 5. n. 11.}

^{Anno 1144.}

^{Io' n 23. Tope.}

^{a Mat. Paris Additament.}

^{p. 200. n. 6.}

^b *De cohabitatione Clericorum & Mulierum, cap. 1. ad verbum Beneficiati., fol. 64. b.*

men ecclesiasticum, & ministracionem sacramentorum & sacramentalium, nec non circa ecclesiasticae jurisdictionis exercitium, & hujusmodi, quae jure spiritualia sunt; nec in hoc casu potest sibi prodeesse prescriptio etiam longissimi temporis, quia talia spiritualia non possunt per regem possideri, & per consequens, nec ut transeat sub sua potestate possunt prescribi, nec consuetudine introduci, &c. In which he will have an hard contest with divers French and Italians, who maintain, & Che tutte le ragioni che si possono acquistare per dispensa del Papa, si possono acquistar anco per consuetudine, la quale sopravenga contraria allallegge: that a prince may prescribe for such acts as he can acquire by the Popes dispensation.

c Consideratio-
ni di l'adre Pa-
o o Venet.

1606. fol 31.

a. vide Ful-
gentio in di-
jela d'efsi, p.

312. & se-
quent.

d Mat. Paris
Additament.

p. 200, n 9.

& in historia
majori p. 716,

7. vide Sel-
den. de Syne-
driis part. I. c.

10. p. 383.

e Mat. Paris
Additament.

p. 202, n 30.

* Vilifimi ri-
baldi.

XVII. d Prohibited the Lay yielding obedience, or answering by Oath to their Ecclesiastick superiour inquiring *de peccatis subditorum*: which I take to have been in cases not properly of their cognizance, not of witnesses either in causes Matrimoniall or Testamentary.

XVIII. I shall conclude these particulars with one observation in *Mat. Paris*; where the Ecclesiasticks, having enumerated severall cases in which they held themselves hardly dealt with, adde, e That in all of them, if the spirituall Judge proceeded contrary to the Kings prohibition, he was attached, &, appearing before the Justices, constrained to produce his proceedings, that they might determine to which court the cause belonged: and if found to pertain to the secular, the spirituall Judges were blamed, and, on confession they had proceeded after the prohibition, were amerced; but denying it, were compell'd to make it good by the testimony of two *vile Varlets, but refusing such purgation, were imprisoned, till by oath they freed themselves to the Justices; that being cleared even by the Lay, they had no satisfaction for their expence and trouble. By which, by the way, it is manifest how much the Kings Courts had the superintendency over the Ecclesiastick.

18. These, and many other particulars of the like nature, daily exercised, notwithstanding the clamour of some Ecclesiasticks, more affecting their own party then the rights of the Crown, make there can be no scruple, but the English did ever understand the outward policy of this Church, or government of it *in foro exteriori*, to have much depended on the King; and therefore the writs for summoning Parliaments, expresse the cause of his calling them to be, *pro quibusdam arduis, urgentibus negotiis, nos, statum, & defensionem regni nostri Anglie & ecclesie Anglicane concernentibus*, ∴ or, as our Bish-
shops have sometimes prest it in the Rolls of Parliament, à l'onour & reverence de Dieu & de seinte esglise, & al salvation & amendement de son roialme, &c. Likewise the Commons, that their gift of the 9th sheaf, &c. to Edw. the 3. to have been for his defence of the Kingdome, & de seinte esglise d' Englterre: Rot. Parliament.

... Evesque
d' Excellence
chanceller.
Rot. Parl.
20 Ric. 2. n. 1.

15. Ed. 3. n. 25. According to which our Kings joyned both together, professing their care for amending the Church to be equall with that of the Commonwealth.

f Rot. Parl.
at Leicester
2. Hen. 5. r.
10.

f Item fait assavoir, que nostre tres souveraigne seignr le Roy, eiantz grande volunte & desir de l'estate de son esglise, & de son Royalme, en les choses ou mesteir est d'amendement, al honor de Dieu, & pur la pees & la commune profit de seinte esglise d' Englterre, come de tout son Royalme, d'el' avis & assent des seigrs esperituells, &c. ad fait, &c. In pursuiance of which interest residing in the Crown, the Lords and Commons under Rich. the 2. fearing the opinions called *Lollardy* might prevail, s petierunt à Rege de iustis remedium apponi, ne forte archa totius fidei ecclesie talibus impulsionibus in illius temporibus, pro defectu gubernaculi, irremediabiliter quateretur. Upon whose desires, he commanded th' Archbishop of Cant. and his other Bishops, ut officium suum singuli in suis diocesibus secundum jura canonica acrius & ferventius exercent, delinquentes castigarent, librosque eorum Anglicos.

g Hen.
Knighton
col. 2708. 4.
Anno 1387

∴ R^t. Parl.
2. Hen. 4. n.
47.

∴ cap. hoc, n. 6.

glicos plenius examinarent, errata exterminarent, populumque in unitatem fidei orthodoxæ reducere stude-
rent, ecclesiamque urticis, [&] vepribus defloratam li-
luis & rosis ornarent, &c. After which, the said authour
records a Commission, by which his Majesty, as *Defender*
of the Catholick Faith, did impower certain to seize
upon hereticall books, and bring them before his coun-
cell: and such as after proclamation shall be found to
hold such opinions, being called and examined before
two Commissioners (who were of the Clergy) and law-
fully convicted thereof, to be by his Majesties ministers
committed to the next prison. ∴ Fourteen years after
which, the Commons shew *Hen.* the 4th the Parliament
might be compared to a Masse, in which th' Archbishop
of *Cant.* began th' office, reading th' Epistle and ex-
pounding the Gospel, (which, it seems, they took to be
the part of the Ecclesiastick, as did the ∴ *Saxons* before)

& à la mesme qe feust la sacrifice d' estre offertz à Dieux
pur touz Christiens, le Roy mesmes à cest Parlement, pour
accomplir celle mesme, plusieurs foitz avoit declarez pleine-
ment a toutz ses lieges, comment sa volunte feust, qe la foy de
scint esglise feust governez en maniere come il' ad este en
temps de ses nobles progenitors, & come il est affirme par
scint esglise, par les scints Doctours, & par scint Escriture,
&c. and a little after, shewing they the Commons were
onely to say, *Deo gratias*, which they were obliged to do
for three reasons, the second of which is, pur ceo qe la
ou la Foy de scint esglise, par malvaise doctrine, feust en point
d' avoir este anientz, engrand subversion du Roy & du Roy-
alme, mesme nostre Seigr, le Roy ent ad fait & ordeignez
bon & joust remede, en destruction de tiel doctrine, & de la
scet d' ycel, peront ilz sont ensement tenuz de dire cel parole
Deo gratias. By all these it must be granted, they did
hold the chief care of the *English* Church to have de-
pended (in the outward policy of it) on the prince; or
else that they did speak and do very unadvisedly in attri-
buting

buting so much unto his care of it, and providing that he might be supplyed to defend it, without at all mentioning any other to whose care it belonged.

19. Neither did these expressions and petitions passe the Commons onely , or the Clergy over-ruled by the numbers of the temporality ; but the Bishops by themselves acknowledged how much it stood in his M^{ties} care to provide against any novelties creeping into the English Church, and that it might enjoy the rights and liberties belonging to it : and therefore , when the said doctrine of Lollardy continued encreasing , they , in the names *Prælatorum & cleri regni Angliae*, petition ^h Henry the 4th. *Quatenus ---- inclitissimorum progenitorum & antecessorum vestrorum laudabilia vestigia gracie considerantes, dignetus vestra regia celsitudo pro conservatione dilecta Ecclesie Anglicanæ, ad Dei laudem, vestrique meritum, & totius regni prædicti prosperitatem & honorem, & pro hujusmodi dissensionibus, divisionibus, dampnis & periculis evitatis, super novitatibus & excessibus prædictis in praesenti Parlamento providere de remedio opportuno &c.* Did not these then hold it the office of the King , as that his progenitors had ever done, to provide, no dissensions, scandals, divisions might arise in the Church , the Catholick faith might be truely conserved and susteined ? and what other did any of our Princes ever challenge or assume ?

20. When the Clergy likewise went at any time beyond their bounds , or were negligent performers of their duties, the subject upon all occasions had recourse unto his M^{ty}, as to whose care the seeing what was amis redrest did especially belong : as : when th' Ecclesiastick Courts were grievous for the fees, ^k or their pecuniary penances too heavy , when they were opprest by Papall provisions (of which before) when through the absence of their Curat they were not so well taught &c. ∴ when

^h Rot. Parl.
2. H. 4. n. 48.

i Rot. Parl. 50.
Ed. 3. n. 84.
1 R. 2. n. 108.
k Rot. Parl.
Offr. Purif.
25. Ed. 3.
n. 35.
l. Rot. Parl.
Offr. Purif.
25. Ed. 3.
n. 31.

^{1.} Rot. Parl.
at Lecester
2. Hen. 5. pet.
des Cœs. 5.
vide Rot. Parl.
40. Ed. 3. n.
36, 37. n. 41,
^{42.}

the frequency of the writ de excommunicato capiendo made it burthensome, ∵ when men were cited by them on causes neither Matrimoniall nor Testamentary, and appearing were not allowed a copy of the libell against them. In which case the Kings answer is not unworthy the repeating, shewing clearly, he directed how they should proceed; *le Roy voet que a quel heure la copie de le libel est grantable par la ley, q'il soit graumé & livré a la partie, sanz difficulte.* It is true, Kings would refer matters of that nature to their Bishops, unto whose care under them it did especially belong: so Richard the

1 Rot. Parl.
17. Ric. 2.
n. 43.

m Rot. Parl.

7. H. 4. n. 114.

2. being¹ petitioned in point of Residency, answered, *Il appartient aux offices des Evesques, & le Roy voet qu'ils facent lour office & devoirs &c.* His successor being again prest in the same kind, gives his command thus, *Facent les Ordinaires lour office & devoirs: & per cause qe les pluralites q'ont este grantees devant ces heures sont & ouint este la greindre cause de l'absence des tiels curats, y plesst au Roy nostre Seigr. de l'avis & assent des Seigrs. en Parlement, escriire par ses honourables lettres a nostre seint pier le Pape, de revoker & repeller toutes les pluralites généralement, & qe d'es ore en avant nulle pluralite soit grantee a ascuny en temps avenir.* But the Pope, it seems, giving no satisfaction in the particular, the " 11. Hen. 4. the Commons again petition, That the riches of the kingdome being in the hands of Church-men, those livings upon which the incumbent of common right ought to reside, half of the true value shoule remain to himself, but the other to the King. To which the answer is, *Ceste matiere appartient a seinte Esglise, & quant a la résidence, remede ent fust purveuz en la darrain Convocation.* Yet this matter of non-résidence still molesting the Commonwealth, 3. Hen. 6. the King tells them,

o Rot. Parl.
3. Hen. 6.
n. 37, 38. vide
4. Hen. 6. n. 31,

by th' advise of the Lords of Parliament, o He had delivered their bill to my Lord of Canterbury, charging him to purvey of remedy for his Province, and semblably shall write

write to the Church of York for that Province. By which we may see the King, Archbishop, and Convocation did conceive themselves to have a power of redressing things in this Church, which yet in civility they thought fit ^p first to acquaint the Pope with, as a spirituall Doctor or Patriarch, however of great esteem, yet not endued with a power of commanding in this Church otherwise then the lawes of the Kingdome, the contracts with the Papacy did bear.

^p See cap. 5.
n. 14, 19.

21. Now it cannot be doubted that all these petitions of the Commons, and sundry more which may be produced, had been by them vainly prefer'd, had they not taken the King to have been vested with a power of redressing things blameable in the government of the Church. But when we say the Prince, as the principall, without whom nothing is done, may be rightly termed Head in the act of reformation; our meaning is not, that he will deal in points of Ecclesiastick cognizance without the advise of his Bishops, and other learned of the Clergy: we know, in things proper ^q Iosuah is to take counsell ^q Numbers of Eleazer, and the Kings of this nation have ever done so.

22. When Edgar intended the advancing Christi gloriam, he chose him three Bishops to be his ^r patres spirituales and consiliarios. But to speak of later times: when the Commons endeavoured a reformation of some things in the Church, Hen. the 8th. would not answer their desires, till he had first acquainted the Spirituallity. When he intended to publish a ^s book of the principall articles and points of our faith, with the declaration — of other expedient points, and also for the lawfull rites and ceremonies to be observed within this realme, he ordained it to be by th' Archbishops and sundry Bishops of both Provinces, and also a great number of the best learned, honestest, and most vertuous sort of Doctors of Divinity, men of discretion, judgement, and good disposition, &c. And Ed-

^r concil. Spelman p. 433.

^r Hall 23.
Hen. 8. fol.
202. b. 24.
Hen. 8. fol.
205. a. Her-
bert p. 329.

^t 153¹₂.
^t Stat. 32. H. 8.
cap. 26.

ward the sixth minding a farther reformation of some usages in the administration of the Eucharist, he caused it to be ^x made by the most grave and learned of his realm, for that purpose by his directions assembled at Windsor; who afterwards, ^y for taking away divers and sundry differing forms and fashions had formerly been used in sundry Churches of England and Wales, appoynted th' Arch-bishop of Canterbury, and certain of the most learned and discreet Bishops, and other learned men of the realm, to consider of the premises, who, by the ayd of the Holy Ghost, with one uniform agreement concluded on and set forth the book of Common prayer &c. Upon which the two houses of Parliament, considering as well the most godly travell of the Kings highnesse, — in gathering and collecting the said Arch-bishops, Bishops and learned men together, as &c. do give to his Highnesse most hearty and lowly thanks &c. So that it is apparent, the King, in composing this book, did not assume to himself, or the Parliament attribute unto him any other then assembling of the Bishops and other learned men together, to take their consultations.

^x *Preface to the book of Ed. the 6. 1549.*

23. And they observing the great ^x diversity in saying and singing in severall Churches, the difficulty of finding what was proper for each day, (apt to breed confusion) reduced the publick service of the Church to one form more facile and of better edification, following therein the examples of divers holy Bishops and others:

^y Mat. Paris
rit. Abbat.
s Albani, p.
101, 17, 19.
p. 123, 28.
^z Agobardus
opera, Paris,
1605 p. 392.
^a Harpsfield
Hist Anglican.
Eccles. sect. xi.
cap. 19 p. 251,
48.

for if ^y Guarinus Abbot of St Albans, in the Office used in his Church about 1190, might superflua resecare, to reduce the prayers there to one form, if ^z Agobardus in France might amputare superflua vel levia &c. if ^a Osmund Bishop of Salisbury in England, quoniam singula fere Dioceses in statis & precariis horis dicendis variabant, ad hanc varietatem tollendam, & ut quasi absolutum quoddam precandi, quo omnes ut i possent, exemplar exstaret, eas in eum fere ordinem & commodam rationem, quam hodie omnes prope Anglia, Cambriæ, & Hiberniæ (viz.

(viz. the Course of *Salisbury*) *Ecclesia sequuntur, magno & prudenti rerum ex sacris scripturis, & probatis Ecclesiae historiis delectu, distribuit & digessit*; if these, I say, might do it on their own motion, there is no question, such of the Clergy as were appointed by the King, might on his desire take it into consideration, and remove matters offensive, or lesse to edification.

24. Neither did Queen *Elizabeth* at the beginning of her reign ^b alter some passages in it, but by the opinions of Divines *eruditis & moderatis*; to whom was added a learned Knight *S^r Thomas Smith*, to whose care the supervising of it had by the house of Commons been committed the second of *Edward* the sixth, and therefore knew better then any other to give an account of that book.

Not did her self, or the house of Lords use differing wayes,^c when the Commons at other times have sought some change in the Ecclesiastick government; as the 23. and 27. of her reign, where though the Lord Treasurer made a short beginning, yet he left the satisfactory answers to be given them by th' Archbishop of *York*.

Insomuch as we may safely conclude, when the Clergy in Convocation styled *Henry* the 8th *Ecclesiae Anglicane protectorem unicum, & supremum dominum, & quantum per Christi leges licet, supremum caput*, they added nothing new unto him but a title; for he and his successors after it, did never exercise any auctority in causes Ecclesiastick, not warranted by the practise offormer Kings of the nation.

By all which the second question remains sufficiently proved, that our Kings were originally endued with auctority to cause the English Church be reformed by th' advice of their Bishops, and other of the Clergy, as agreeing with the practise of all ages. For who introduced the opinion of Transubstantiation? made it an article of Faith? barr'd the Lay of the Cup? Priests of mar-

^b *Camden.*
Annales Eliz.

^c *Tourn. des*
Côtes 23. Eliz.
March 3. &c 7.
& 27. Eliz.
Februar. 25.

riage? who restored the Mass in Queen *Maries* dayes before any reconciliation made with *Rome*? but the Ecclesiasticks of this Kingdome under the Prince for the time being, who commanded or connived at it.

C H A P. VI.

How the Kings of England proceeded in their separation from Rome.

1. **T** being by what is already said undoubted, the Clergy called together by the Prince, or meeting by his allowance, have ever had a power of reforming this Church, commanding things *juris positivi* in it, and likewise dispensing with them, and that the statute 24. *Hen. 8. cap. 12.* that faith in effect as much, is no other then a declaration of the Common law, that is the custome of the realm; the next enquiry will be, for acquitting the Church of *England* in point of schism, how this separation from *Rome* was made.

2. *Henry the 8th* having long pursued a cause Matrimoniall with *Clement the 7.* who shewed so much complyance to determine it in his favour, as he sent Cardinall *Campeius* hither to joyn with *Wolfey* the Kings creature in the businesse, and upon the Emperours successe in *Italy*, the cause, after many delayes, being revoked to *Rome*, the King, upon the opinions of many foreign Divines of the invalidity of his marriage with *Queen Katharine*, caused the case to be determined by the *English* Church: which judgement yet he would have in some measure submitted to the Court of *Rome*, so as he might have given the persons to whom it was delegated by the Pope full information, and the Cardinalls

Cardinalls of the Imperiall faction excluded having any part in the decision. But *Clement* hearing what had past in *England*, with more then ordinary hast determins the cause against him: which how much it would irritate any Prince of so great power, and so high a spirit as our *Henry*, I shall leave others to judge. And here I might alledge many forreign examples, of those who upon lesse indignities have stopt all entercourse with *Rome*, as * *Lewis* the 12. and *Henry* the 2. of *France*, if I had undertook to write an apology for him.

* Whose coin is yet extant, having on one side his picture, and an inscription shewing him to be King of France and Naples, on the other the armes of France, and these words, Perdam Babylonis nomen. Thuanus lib. 1. p. 111. c. ¶ In archivis Oxon. ad Ann. num 1534. p. 127, &c.

3. The King, upon the advertisement of these proceedings by the Pope, which was at the beginning of the year 1534, falls first to those courses his auncestors had formerly done, when they had occasion to know how they ought to comport themselves in any thing towards *Rome*, which was to have the advise of the English Church; and thereupon wrote to the Universities, great Monasteries and Churches of the Kingdome, & the 18. May 1534. to the University of *Oxford*, † requiring them, like men of virtue and profound literature, to diligently intent, examine, and discusse a certain question, viz. An Romanus Episcopus habeat majorem aliquam jurisdictionem sibi collatam in sacra Scriptura in hoc regno Angliae, quam aliis quivis externus Episcopus; and to return their opinion in writing under their common seal, according to the meer and sincere truth of the same, &c. To which, after mature deliberation, and examination not onely of the places of holy Scripture, but of the best interpreters, for many dayes, they returned answer the 27. June 1534. (without all peradventure according to the ancient tenet of the English) Romanum Episcopum majorem aliquam jurisdictionem non habere sibi à Deo collatam in sacra Scriptura in hoc regno Angliae, quam alium quemvis externum Episcopum. Of this answer I have thought fit to make particular mention, (though assented to by all the English Clergy) because *Oxford* hath been ever.

^a Mat. Paris
Anno 1252.
p. 859, 3. &
Anno 1257.
p. 945, 28.
^b Rot. Parl.
1. Hen. 6. n.
43.

^c Hen. Knighton col. 2671,
24. col. 2742,
23.

^d Walsing.
Hist. Anno
1408. p. 420,
r.

^e In fasciculo
zizaniorum
Ms. in bibli-
otheca Archie-
piscopii Arm-
chani.

^f Circa mate-
riam excom-
municationum
resolutio, consi-
derat. 11. 10. 2.
col. 349. a. Ed.
Paris 1606.

ever ^a held *emula Parisensis, Ecclesiae fundamentum,*
^b *fountain & Mere de nostre foy Chrestiene*, as I formerly
touched: whose opinion the English Church hath
therefore highly esteemed, and sought on all occasions
of this nature; of which to give some examples.

4. Upon the election of *Urban* the 6. *France, Scotland,*
Flanders, and divers other parts adhering to *Clement*,
who resided at *Avignon*, ^c the French King 1395. caused
a meeting of the Clergy of his dominions, to search
whether had the better right to the Papacy: whose judg-
ment was for *Clement*; which under the seal of the University
of *Paris* was sent to *Richard* the 2. who there-
upon fecit convocationem *Oxoniae de peritioribus Theolo-*
gis tam regentibus quam non regentibus totius regni, and
they on the contrary judged *Urban* to have the better ti-
tle; whose opinion under the seal of the University of
Oxford returned to the King was by him transmitted into
France. 1408, ^d in Concilio Cleri celebrato Londoniis, af-
fistentibus doctoribus *Vniversitatum Cantabrigiæ & Oxo-*
niae, tractatum est de censu & obedientia *Papæ subtrahendis*
vel non subtrahendis: about which time twelve of the University
of *Oxford*, on the Archbishops desire, in the name
of the rest, examined the books & Doctrines of *Wickliffe*,
& sent their resolutions to a Synod at *London* in an epistle
yet ^e extant. By all which it is manifest, how much their
opinions were esteemed in this Kingdome. And I hold
it undoubted, a Prince following so great advise, chalked
out to him by the praetile of his ancestors, could not
be guilty of so heinous a crime as schism, arising onely
from disobedience to any spirituall superior whatsoever.

^f *Gerson* sayes, a private person runs into no contempt
of the Keyes in divers cases by him enumerated; as one,
dum dicit aliquis juristarum vel theologorum *juxta conser-*
tiam suam, quod hujusmodi sententiae non sunt timenda
vel tenenda, & hoc præsertim si observetur informatio seu
cautela debita, ne sequatur scandalum pusillorum, qui asti-
mant

mant Papam esse unum Deum: And Navar, the greatest Canonist of his time, & qui unus doctoris eruditio ac animi pietate celebris auctoritate ductus fecerit, aliquid excusatur, etiam si forte id non esset justum, & alii contrarium tenerent. And to this purpose many more Doctors may be alledged.

5. This as it was done by him, so he was led unto it by the example of his predecessors, as I have partly toucht before; and shall therefore alledge no other, but that in the disputes between Becket and Henry the 2. the Archbishop endeavouring to intereste Alexander the 3. in the difference, that Prince ^b caused it to be written unto him, *Sijuri vestro vel honori præjudicatur in aliquo, id se totius Ecclesie regni sui consilio correcturum in proximo pollicetur:* and a little after, ⁱ *Dominus Rex plurimum sibi justificare videtur, cum in omnibus quæ dicta sunt, Ecclesiæ regni sui consilio simul & iudicio se pariturum pollicetur.* And this the often repeating of it, not onely in a particular letter of the Bishop of London, but of all the Bishops of the Province of Canterbury, both to the ^k Pope and Becket, enough assure us how undoubted it was in those dayes, that our Kings following the advise of the English Church, did proceed on safe grounds for their justification in such quarrells.

6. Neither was the opinion returned by these Divines so differing from the writings of other learned men, as might make them any way guilty of schism. ^l Gerson speaking of the severall degrees of Divine truths, places for the first such as are expresse in Scripture, secondly those that are by evident consequence deduced from thence, thirdly such as being delivered by Christ, have been by the constant tradition of the Church derived to us, of which he holds this proposition, *Universalis Ecclesia Pontifici Romano subiecta sit;* and adds, *non enim posset evidenter aut per consequentiam pure de fide ex legibus primi generis humana deductione fulciri, &c.* and

^g Navar. cap.
cum contingat
de Rescript.
remed. 2.n.3^o.
10. 2. editionis
Coloni. Anno
1616. p. 59.
col. 1. §. NO. 6.

^b Hoveden
Anno 1166,
fol. 287.b.4^o.
ⁱ Ibid fol. 288,
8.

^k Apud Ho-
vedensem fol. 292.
b. 11.49.
293.a. 33.

^l Gerson de
vita spiritualli
anima corol. 7.
to. 3. col. 183.
b. c.

.: Cont. de
potestate Pon-
tificis ad Ni-
cholaum Teu-
polum.

.: Contarenuſ, in a ſmall tract de potestate Pontificis, of that question ſayes, *An Auctoritas illa & potestas, qua Pon- tifex maximus fungitur, ſit ei. consensu quodam hominis tributa, an potius divinitus tradita; qua de re hisce temporibus maximos tumultus excitatos eſſe perſpicimus, nec etiam veritiſint viri in omni disciplinarum genere celebres, ac in Christianae Theologiæ ſtudio illuſtres, in magno hominum conuentu aſſerere, hoc ius Ponitificis humanum eſſe;* & then adds that he ab horum hominum ſententia maxime diſſen- tire, ac prope compertum habere, divinitus confeſſum eſſe Pontifici ius illud &c. So that this learned Cardinal was not altogether resolved in the point, but as a diſputable question had it prope comperzum. The truth of which I leave him to diſpute with the Orientall Christians. It is manifest, ⁱⁿ Francis the first was of the contrary judge- ment; and our Countryman ^a Stapleton delivers it as a Catholick tenet of former times, (undoubtedly agree- ing with that of the English Church) *non divino, ſed huma- no jure, & poſitivis eccleſiae decretis primatum Romani Pontificis niti &c.*

^b Hen. the viii.

7. But I return to our *King, who now fortified by the opinion of the Universities, publick diſputations in the convocation, and ſeverall precedents offormer Princes his predeceſſors, in his rights, whereas the Parliament before in ſome particulars restrained the profits of Rome, as in the payments of Annates, Peter-pence, making Appeals to it, whose beginnings with us I have formerly noted, did ^c the 26. Hen. 8. 1533, declare his Maior, his heirs and ſucceſſors, Kings of this realm, ſhall have full power & aucto- rity from tyme to tyme to viſit, repreſſe, redreſſe, &c. all ſuch errors, heretiſies, abuses, &c. which by any manner ſpiritu- all authority or jurisdiction may be lawfully reformed, repreſſed, ordered, redreſſed, &c. This the Court of Rome interpreted a falling off from the Church, and the English no other then a declaration of that right had ever reſided in the Crown, and which I believe it will be a diſ- cult task to diſprove them in.

^c Stat. 26.

Hen. 8. cap. 1. begun the 3.

November and ended the 18.

December

1533.

3. For

8. For those two articles *P Paulus 3.* accuses the King
of, as Hereticall and schismaticall, viz. *quod Romanus*
Pontifex caput ecclesiae & Christi vicarius non erat, & quod
ipse in Anglicana ecclesia supremum caput existebat &c. for
the first, I never heard it affirmed by the King in that
generality the words import; for the Pope is a tempo-
rall prince, as well as a spirituall father; and so far as I
know he never denied him to be the head of the Church
of his own dominions, nor of *France* and *Spain* &c. if
those Kingdomes will admit him to so great a preemi-
nence: the thing he onely stood upon is, that he was
not so instituted by Christ Universall Bishop, and had a-
lone from him such an omnipotency of power, as made
him absolute Monarch in effect of the universall Church,
and was so in *England*. For his being vicar of *Christ* in
that sense other Bishops may be said to be his vicegerents,
(as before) I do not see how it can be well denied ^{q Cap. 3. n. 72.}
him; but that this Vicarship did import the giving him
that power he did then exercise here, is what the Church
of *England* hath ever constantly denied. As for the Kings
being Head of the Church, I have before shewed he nei-
ther took it, nor the Parliament gave it, in other sense
then the *French* have alwayes attributed it to their Prin-
ces; neither for ought I find was it so much sought by King
Henry, as prest on him by the Clergy, of which the Bi-
shop of *Rochester* was one that subscribed to it; and his
Ancestors did the same things before, he did after, under
thenames of *Protectors*, *Tutors*, ∴ *Christi vicarii, Domini*
Agricola, &c.

9. For the other particulars mentioned in the Bull, as
his beheading the Bishop or Cardinall of *Rochester*, the
burning of *Becket's* bones, the taking the treasure and or-
naments at his Shrine, to which may be added the sup-
pressing, and converting into Lay hands the Monaste-
ries of the Kingdome, I shall not say much, having not
taken on me to defend that Princes actions. Yet for the

^p *Bula Pauli*
^{3.} *in Bullar.* ^a
^d *ad 17. Ianuar.*
1538.

^b *Cord.*
Spelman. p. 437.
cap. 7, 8. Seld.
notis ad Ead-
micer. p. 175. 74.
17.

R. Rot. Parl.
fest. S. Hillair
25. Ed. 3. n. 60.
petitions de
Chasey.

taking off the head of Rochester (if he were convict of treason) I must give the answer of Edward the 3. to the Clergy in that kind, *en droict de Clerks convictz de treason; purceo qe le Roy, & toutz ses progenitors ouint este seisis tut temps de faire jugement & execution de Clercz convieltz de treason devers le Roy & sa Royale Mageste, come de droict de la corone, si est avis au Roy, qe la ley en tien cas ne se poet changer:* and then he cannot be said to have dyed otherwise then by law. As for the goods and ornaments of Churches by him layd hold on, it is certain, his predecessors in their extremities had shew'd him the way; as the Conquerour, who took all the ready money was found in Religious houses; Richard the first, who took all, to the very Chalices of Churches, and yet th' Archbishop afterwards *"regio munimine septus — universos monachorum (to wit, of Christ Church) redditus & oblationes tumbae beati martyris Thomae fecit saisiari in manu Regis;* and Edward the first 1296, *fecit omnia regni monasteria perscrutari, & pecuniam inventam Londonias apportari, fecit que lanas & corias arrestari, &c.* And in those dayes Bishops did tell Kings, *y Thesaurus ecclesiae vester est, nec absque vestra conscientia debuit amoveri:* to which the King, *verum est, Thesaurus noster est ad defensionem terrae contra hostes peregrinos &c.* And perhaps it would be no hard labour to shew, all Princes, not onely here, but elsewhere, to have had (how justly I will not determine) a like persuasion. And he then being excommunicated by Paulus 3. for maintaining what the Crown had ever been in possession of, can no way be said to have departed from the Church; but the Pope to have injuriously proceeded against him, who maintained onely the just rights and liberties of his kingdom, according to his coronation oath.

10. And this is the case, and fully answers (so far as it appears to me) whatsoever can be objected against the reformation begun by him, or made more perfect by

Edward.

s Flor. Wi-
gora. Anno
1070.
Neubrigen-
sis lib. 4. cap.
38.
x Hoveden.
Anno 1198.
fol. 44. a 8.
x Walsingh.
anno 1290. p.
29, 24.
y Gervas.
Dorobera.
vol. 1554. 44.

Edward the 6. for the manner of doing it , viz. *that they, as supreme Princes of this Kingdome, had a right to call together their own Clergy, and with their advise, to see the Church reformed by them.* And if otherwise, I should desire to know how the *Masse* without any intermission was restored by Queen *Mary*: for it is manifest, she returned the use of it immediately after her brothers death, & yet Cardinall *Pole* reconciled not this Kingdome to *Rome* till the 30th of November above a year after, and then too

*on such conditions onely as the Parliament approved; during which space, she as Queen gave ^a directions to the Ordinaries how they should carry themselves in severall particulars; which as it is probable she did by th' advice of her Bishops, so there is no reason to condemn the like proceedings in Edward the 6.

11. I have before shewed how far the royal power went in compiling the book of Common prayer: for a Catechism published by the same Prince, it being composed by a learned person, presented to his Maty, and by him committed to the scrutiny of certain Bishops and other learned men, *quorum judicium* (sayes ^b his Maty) *magnam apud nos autoritatem habet*, after their allowance it was by him recommended to be publickly taught in Schools. Likewise the Articles for taking away diversity of opinions in points of religion, were agreed upon in a Synod at London by the Bishops and other learned men, & *Regia autoritate in lucem editi*. The King in framing them taking no farther on himself, then he had in the book of Common prayer. And Queen *Mary*, though she quitted the title of *head of the Church* (which yet she did not so suddenly as *Saunders* intimates) did in effect as much. So that hitherto there is no way of fixing any schism on the English Church, for neglect of obedience, it having been ever subject to the Archbishop of Canterbury and others its lawfull superiors, restoring to him the ancient right belonged to his chair, of being

* Stat. 1.2.P.

^c Mar. cap.

8.

^a See Fox, vol. 3.p.38.

^b Literæ ante Catechismum direc̄te omnibus Ludimagiſtris, & iis qui ſcholas grammaticas aperiunt, dat. 20. Maii anno regni 7.

e Cap. 3. n. 80. their spirituall pastor & next and immediately under Christ Iesus. But the Kingdome being re-united to the See of Rome by Queen Mary, though what I have laid doth in a good part free it of schism, yet in respect the reformation I onely took upon me to defend was made by Queen Elizabeth, and continued since, it will be necessary to make some more particular mention how it did passe.

C H A P. VII.

How the reformation was made under Queen Elizabeth.

1.  Elizabeth, the daughter of Henry the 8th by Queen Anne Bolen, being received by all the estates of the Kingdome, (assembled in Parliament) and proclaimed Queen, caused her sisters Ambassador, Sr Edward Kerne, then residing at Rome, to give an account of this her being called to the Crown to Paulus 4th the Pope; who being in union with France, and out with the house of Austria then strictly joyned with England, and both at odds with the French, told him, either perswaded by them, or upon his own heady disposition, "England was a Fee of the Church of Rome; That she could not succeed, as illegitimate; That he could not go against the declarations of Clement the 7. and Paulus 3rd; That her assuming the name and government without him, was so great an audacity, she deserved not to be hearkned to: But he being willing to proceed paternally, if she would renounce her pretensions, and freely remit her self to his arbitrement, he would do what lay in his power with the dignity of the Apostolick See. A strange reply to a civil message, were it not derived to us by an unquestionable hand, and that it came from

*a Hist. Council
of Trent Ital.
lib. 5. Anno
1558. p. 399.
edit. Lond.
1619. & Ge-
neva p. 420.*

from *Paulus 4th*, to whom it was not an unusuall saying,
 b that hee would have no Prince his compagnion, but all
 subjects under hys foot. Upon this unwillingnesse to ac-
 knowledge her Queen at *Rome*, th' Archbishop of *York*
 (who had before c affirmed no man could doubt of the
 justnesse of her title) - and the rest of the Bishops refused
 to Crown her. As for that d some write, it was because they
 had evident probabilities she intended either not to take, or
 not to keep the oath was then to be administred unto her, espe-
 cially in the particular of not maintaining holy Churches
 lawes, in respect she had shewed an aversenesse to some cere-
 monies, as commanding the Bish. of *Carlile* not to elevate
 the consecrated Host, (who stoutly refused her) and out of
 fear she would refuse in the time of her sacre the solemn di-
 vine ceremony of *Vnction*; these are certainly without a
 ny colour, and framed since. For as for the last, the ce-
 remony of anointing, she had it performed; as had King
James who succeeded her, who e would not have his
 Queen crowned in *Scotland* without it. For the other,
 it is altogether improbable that he to whom the com-
 mand was by her given, wou'd of all the rest have assen-
 ted to crown her, had he conceived that a cause why it
 might have been denied: neither indeed did she alter
 any thing materiall in the service of the Church, till after
 the conference at *Westminster* 1559. the 31. March, and
 the Parliament ended.

2. To passe therefore by these, as excuses found out
 after the deed done, the true reason being (no question)
 something came from the Pope, in pursuance of that
 answer he had given her Agent; the Queen seeing she
 could expect nothing from the Papacy, laboured to
 make all safe at home, or, to use her own phrase, to take
 care of her own house; and therefore (as she had reason)
 desired to be assured of her subjects fidelity, by propoun-
 ding an oath to certain of them, (which is seldom a tie
 to other then honest minds.) But the way (mens.minds
 distracted)

b Ibid. paulo an-
 te eodem libro.

c His speech at
 the making
 known
 Queen Maries
 death to the
 Commons, in
 Camden, Ho-
 linshead, Grat-
 ton, & alii
 d The defence of
 the Catholicks a-
 gainst the book
 styled The Ex-
 ecution of Ju-
 stice in Eng-
 land, pag. 51.

e See Spots-
 wood's History
 of the Church of
 Scotland, p. 381. .

*ff Stat. 28. Hen.
the 8. cap. 10.*

distracted in points of religion, the law of *Henry the 8.* (extinguishing the auctority of the Bishop of *Rome*) being very severe, for securing himself, in bringing such as didbut extoll the said auctority, for the first offence, within the compass of a *præmunire*, and that refused to take it, of treason,) was not easly to be pitcht upon: besides styling the King *head of the Church*, which many made a scruple at; to *g* which effect a bill being presented to the house of Commons the 9. of *February*, after many arguments had upon it, the 13. of *February* upon the second reading it was absolutely dasht, and upon great consideration taken the 14. *Febr.* a Committee appointed to draw a new Bill, in which an especiall care was taken for restoring onely the ancient jurisdiction of the Crown, and the Queen neither styled *supreme Head*, nor the penalty of refusing the Oath other, then the being excluded from such places of honour and profit as they held in the Common-wealthe: yet with this *proviso*, that he who had an estate of inheritance in a temporall Office, & refused to take the said oath, did after upon better perswasion conform himself, should be restored unto the said estate; and that such as should maintain or defend the auctority, preeminence, power or jurisdiction, spirituall or ecclesiasticall, of any forreign Prince, Prelate, Person, State or Potentate whatsoever (not naming the Pope, as her father had done) should be three times convict before he suffered the pains of death.

3. This Bill, which no doubt the Popes carriage drew on, being expedited in the house of Commons, received reformation by the Lords, committed the 13. *March* to the Lord Marquess of *Winchester*, Lord Treasurer, the Duke of *Norfolk*, the Earls of *Westmorland*, *Shrewsbury*, *Rutland*, *Sussex*, *Penbrook*, viscount *Mountague*; Bishops, *Exeter*, *Carlisle*; Barons, *Clynton*, *Admirall*, *Morley*, *Rich*, *Willoughby*, *North*, no one of them then noted for Protestantisme; the 18. *March* past the Lords, none dissenting but

*Journ. des
Cœs 1. Eliz.*

but s. Bishops, the Earl of *Shrewsbury*, Viscount *Mountague*, and the Abbot of *Westminster*: and the same day sent to the house of Commons, who upon perusal found again what to amend it in; so as it had not it's perfection in both Houses till Saturday the 6th of *May* (when the Parliament ended the Monday following) at which time onely Viscount *Mountague* & the interessed Clergy opposed it. By which it cannot be questioned, but the generality of the Lords did interpret that law, no other then, as indeed it was, a restoring the Crown to it's ancient rights; for if otherwise, without doubt there would have been as great an opposition at least made against it, as some other statutes which past that Parliament met with, that the Marquess of *Winchester*, the Lords *Morley*, *Stafford*, *Dudley*, *Wharton*, *Rich*, *North*, joyned with the Earls of *Shrewsbury*, Viscount *Mountague*, and the Prelats, to have stopt.

4. But whereas some were induced to think by the generality of the words, that affirm her Highness to be *supreme governour as well in all spirituall or ecclesiasticall causes as temporall*, as if it had been an usurping upon the sacred function in the interior (as I may say) of the Church, properly belonging to them in holy Orders, her May the same year ^b did declare, *She did not challenge any other auctority then was challenged and lately used by King Henry the 8th and Edw. 6. which is, and was of ancient time due to th' imperiall crown of this Realme; that is, under God to have the Soveraignty and rule over all manner of persons born within these her realms, &c.* And that to be the onely sense of the Oath she caused to be confirmed the next ⁱ Parliament; at which time a Synod being held, for avoiding diversity of opinions, and establishing of consent touching true religion &c. it did expressly declare, ^k they did not give to our Princes the ministring either of Gods Word or the Sacraments, — *But that onely prerogative is given in holy Scripture by God himself, that is,*

^h The Admo-
nition in In-
junctions
ⁱ Eliz.

^j 5 Eliz. cap. 1.

^k Art. 37.

is, that they should rule all estates and degrees committed to their charge by God, whether they be ecclesiasticall or temporall, and restrain with the civill sword the stubborn and evill-doers, &c. And these articles were likewise confirmed by Parliament 13. Eliz. cap. 12. so that no man can doubt this to have been other then an acknowledgement, what Princes had done formerly in all ages might be justly continued; not an introductory of a new law, but the assertion of the old right of our Kings.

5. Another matter of great weight then likewise expedited was, the settling the publick service of the Church in one uniform way. King Edward the 6. intending such a reformation as might serve for edification, caused certain pious and learned men to meet together, who (as it seems) taking for their pattern the practise of the primitive times, casting out of the Liturgies then used such particulars as were any way offensive, shew'd their scope to be, what they pretended, to reform, not make a new Church or Service; and thereupon had, by the aid of the holy Ghost, (as the Act of Parliament speaks) concluded on, and publish't the book of Common prayer, with a form of administration of the holy Communion, commonly called the Mass. But nothing humane is perfect at first: this Book some few years after received in his time alteration, and the word *Mass* (I know not why more offensive in it then the ^m Augustane Confession) expunged, with some other phrases in it.

¹ Stat. 2. & 3.
Ed. 6. cap. 1.

^m Cap. de
Missa. Retine-
^{nt} Missa a-
pud nos, &
summa rever-
entia celebra-
tur.

6. But for the better understanding how Queen Elizabeth found this Church, it will not be amiss to look a little back. Henry the 8. dying in January 1547, leaving the Roman Service, with some alterations not greatly considerable in it, the wisdome of the State (however intending a farther reformation) was not immediately to abolish it; so as the Lords meeting in Parl^{nt}. 1547. November the 4. though they had the Mass sung in English, yet the Liturgy of the Church was not common in that language:

language till after *Easter* 1548. This Session continuing till December 23. restored the Communion in both kinds, upon which certain learned men by appointment met at *Windsor*, to consider of a decent Form for the administration of it; which in March his May gave out backt with a Proclamation, so as at *Easter* it began (without compulsion of any,) to be put in practise, and after *Easter*, severall parochiall Churches to celebrate divine Service in *English*, which at *Whitsuntide* was by command introduced into *Paul's*; but hitherto no book of Common prayer extant, onely the manner of administering the holy Eucharist somewhat altered.

7. During this while, the Archbishop of *Cant.* 6. Bishops, 3. Deans Doctors, and 3. other onely Doctors, were busied in reforming the publick Liturgy of the Church. *John Calvin of Geneva*, a person then of high esteem, advertised of it, thereupon wrote to the Duke of *Somerset* the 22. October 1548, giving his judgement in these words [quod ad formulam precum & rituum ecclesiasticorum, valde probouit certa illa extet, à qua pastori- bus discedere in functione sua non licet, tam ut consulatur quorundam simplicitati & imperitiæ, quam ut certius ita constet omnium inter se ecclesiarum consensus, postremo etiam ut obviam eatur desultoriae quorundam levitati qui novationes quasdam affectant.] and taking notice of the form already had for celebrating the Communion, adds this, *Audio recitari isthic in Cœna celebratione orationem pro defunctis, neque vero hoc ad purgatorii Papistici approbationem referri satis seio, neque etiam me latet proferri posse antiquum ritum mentionis defunctorum facienda, ut eo modo communio fidelium omnium in unum corpus coniunctorum declaretur; sed obstat invictum illud argumentum, nempe Cœnam Domini adeo sacrosanctam esse, ut ullis hominum additamentis eam conspurcare sit nefas.*

* *Iohan. Cal-
vin. Epist. 87.*

8. This Letter received about the * beginning of the

S 2

Parliament,

were the 4. November: which I conceive erroneous, as not at all agreeing with the Journal.

* Note, the
printed book of
Statutes is, as if
their meeting

Parliament, which met the 24. of November 1548. may have been the cause of deferring th' exhibition of it to the House of Commons till the 19. December 1548. when the consideration of it was referred to *Sr Thomas Smith*, his Maties Secretary, and a very learned Knight, who returned it back again the 19. January, having kept it by him a full moneth; after which it was expedited and printed in March following, and the 6th of April 1549. the Mass by Proclamation removed. But this book was not so perfect, as it yielded no exceptions, whether just or not I shall not hear examine, I know learned men have judged variously: it shall suffice me to say, it was again revised by *Bucer* (a great patron of Discipline, and Martyr, both in *England*,) and reprinted 1552. and to ought in or of this second edition during King Edwards reign I have not heard any Protestant did ever except.

9. In Queen Maries time divers learned men retired from the heat of Persecution, and by the favour of the Magistrate permitted a Church 1554. at *Frankford*, laboured to retain this Liturgy; whom *Knox*, *VWhittingham*, and some others opposed so far, as one *Haddon* desired to be their Pastor, excused himself, and Mr. *Chambers* coming for that end from *Zurick*, finding it would not be allowed, retired back again, and xvi. learned men then at *Strasburgh* (amongst which this *Haddon*, *Sandis* afterward Archbishop of *Yorke*, *Grindall* of *Canterbury*, *Christopher Goodman* famous for his book of Obedience) remonstrated unto them, *That by much altering the said book they should seem to condemn the framers, now ready with the price of their bloud to confirm it, should give their adversaries occasion to accuse their doctrine of imperfection, themselves of mutability, and the Godly to doubt of what they had been perswaded; that the use of it permitted they woulde joyn with them by the first of February*: their Letter bearing date the 23. of November 1554.

10. But nothing could move them to be like Saint

*Troubles at
Frankford p.
xxii.*

Paul,

Paul, all things to all that he might gain some , or relent ^{1 Corinth. ix.} ^{22.} any thing of their former rigour ; onely a Type of it drawn into Latine was sent to *Calvin* for his judgement, who returned an answer the 18. January 155⁴. Some- ^{Epist. 200.} what resembling the *Delphick* oracles, *That the book did not contein the purity was to be wifht*; *that there were in it ineptias, yet tolerabiles*; *that as he would not have them be ultra modum rigidos*, *so he did admonish others ne sibi in sua incititia nimis placeant, &c.* And here I cannot deny to have sometime wondred, why in these disputes the opinion of *Peter Martyr*, then at *Strasburgh*, a person for learning no lesse eminent, was never required : but I have since heard him to have been alwayes a profest patron of it, as one by whose care and privity it had been reformed.

11. Whilst matters went thus in *Germany*, certain learned men at *Geneva* were composing a Form for the use of the *English Church* there , which 1556. was printed by *Crispin*, with this title,

Ratio & forma publice orandi Deum atque administrandi Sacra menta &c. in Anglorum ecclesiam, que Genevae colligitur, recepta, cum judicio & comprobatione D. Iohannis Calvini.

But this did not satisfy all, for Mr. *Lever* coming to *Frankford* to be their Minister, requested they would trust him to use such an order as should be godly, yet without any respect to the book of *Geneva* or any other. But his endeavours were soon rejected , as not fit for a right reformed Church, and the book it self hath received since sundry changes from that first type.

12. In this posture Queen *Elizabeth* found the Church, the Protestant party abroad opposing the book of Common prayer, few, varying in judgement, not at unity with themselves, nor well agreeing what they would submit unto : She hereupon caused it to be again revised by certain moderate and learned men , who took a

great care for removing all things really lyable to exception; and therefore where *Henry the 8.* had caused to be inserted into the Letany, *to be delivered from the Tyranny of the Bishop of Rome & all his detestable enormities*, which remained all King *Edwards* time, this, as what might give offence to that party, was thought fit to be strook out; and where in the delivery of the Eucharist the first book of *Ed. the 6.* had onely this clause,

* *The body of our Lord Jesus Christ which was given for thee preserve thy body and soul unto everlasting life*, and at the giving of the Cup no other then *The bloud of our Lord Iesus Christ which was shed for thee preserve thy body and soul unto everlasting life*, and the second book which was in force at his death had removed those two clauses, and instead of them inserted *Take and eat this in remembrance that Christ dyed for thee, and feed on him in thy heart by faith with thanksgiving*, and accordingly at the delivery of the Cup, from whence some might, and perhaps did infer the faithfull Receiver not to have a real communication of Christ's body, in taking the Sacrament, but onely a remembrance of his sufferings; it was now thought fit both expressions should be retained, that no man might have any just cause of scandall: for be Christ's presence never so reall, even by *Transubstantiation*, in the holy Sacrament, we may upon ^o Saint Pauls warrant do it in remembrance of him.

Thus at the first of her reign matters in religion past with so great moderation, as it is not to be denyed very few, or none, of the Romish inclination(if they did at any time go to Mass,) refused to be present in our Churches during the time of Divine Service.

But of another thing that likewise past at the same time, it will be necessary to make some more particular mention.

* *The first book of Ed. 6. fol. 130. b.*

^o *1 cor. xi.
24. 25. 1*

C H A P. VIII.

*How Queen Elizabeth settled in this
Kingdome the proceeding against Hereticks.*

A Nother particular, no small argument of the Queens disposition, fell into consideration this Parliament. Her ^a Sister had revived all the laws of former Princes against Hereticks, even that ^b of Hen. the 4. which her Father had on weighty considerations repealed, and all proceedings against them, till they came to their very execution, pertaining to the Ecclesiastick: how to find a means to preserve her subjects, and yet not leave a license to every old heresy, new invention, fanatick spirit, to ruffle the Church and trouble the world, was a matter of no small difficulty. But for the better understanding of what then past, it will be requisite to consider, how the condemning of Heresy and proceeding against Hereticks hath been, both here and elsewhere, how her Mat^y found it abroad in the Christian world, and at home, how thereupon she settled it.

2. The words *Heresy* and *Heretick* were in the primitive Church not alwayes of so ill a sound as these later Ages have made them. ^c *St Augustine* doth name some opinions for hereticall have small affinity with Divinity; and who shall read ^d *Philastrius* of Heresies, must needs approve ^e Cardinall *Bellarmin's* censure of him, that he accounts amongst them many are not properly Heresies, as the word is now taken. The first Councell ∴ of *Constantinople* held 381. expreſſly affirms by the name of Heretick to understand ſuch as profeſſing the ſame faith, yet did make a separation from thofe.

^a 1. 2. P. M.
cap. 6.

^b 2. Hen. 4.
cap. 15. re-
pealed, 25. H!
²; cap. 14.

^c De Hereti-
cis cap. 63.

^d To. 4. bibli-
othec. patrum
cap. 54. 82.
^e De Scriptori-
bus.

∴ Concil.
Gen. Rov. 10.
1. p. 88. cap. 6.

§ Actus xv.

those canonicall Bishops were of their communion. But the construction what opinion was heretical, did ever, so far as I have observed, belong to the spirituall Magistrate, who, after the pattern held out in *s* holy Writ, if any new erroneous opinion did peep, the neighbour Bishops and Clergy taking notice of it, did assemble, condemn it, and by their letters gave notice of what had past them to absent Churches: if the case were difficult, the presence of any famous Clerk was desired, who for settling peace (as who would not?) was easily drawn out

*g Euseb. lib.
6. cap. 12. al.
30.*

*h Euseb. lib.
7. cap. 12. &c.
ad cap. 1. al.
cap. 22, 23, 24.*

*i Euseb. lib.
10. cap. 7.
Socrat. pro-
em. lib. 5.
vide epist.
Theodosii*

*Cyrillo apud
Baron. 10. 5.
Anno 430. n.
64.*

*k Codex Theo-
dos. lib. 16. de
Hæreticis leg.*

*l Vide Euseb.
de vita Con-
stantini cap.
61, 62. lib. 3.
l Cod. Theod.
lib. 16. de
Fide Catho-
lica leg. 2.*

But for the prosecution of an Heretick farther then to avoid him, I know no example, till after God having given peace to his people under Christian Emperours, they *i* finding, if the Church were in trouble, the State to be seldome otherwise, did provide as well for the calling of Bishops to Councells that might condemn Heresies, as by lawes to punish Hereticks.

3. The Councell of *Nice* therefore having in the year 325. censured the opinions of *Arius* for heretical, the Emperour that had forinerly granted priviledges to Christians 326, declared *k hæreticos atque schismaticos his privilegiis alienos &c.* and that no man might be deceived by the ambiguity of the word *Heretick*, ¹ *Gratian* and *Theodosius* in the year 380. did declare who onely were to be so reputed, *viz.* all who *secundum Apo-*
stolicam disciplinam evanngelicamque doctrinam patris &
filii & spiritus sancti unam deitatem sub parili maiestate &
sub pia trinitate credamus, hanc legem sequentes, Christi-
anorum Catholicorum nomen jubemus amplecti, reliquos
vero dementes vesanosque judicantes hæretici dogmatis in-
famiam sustinere: and the year following did not onely
in

in January^m renew the said Edict, but in Julyⁿ commanded all Churches to be delivered those Bishops who held that profession, *nihil dissonum profana divisione facientes, sed Trinitatis ordinem, personarum adserionem, divisionis ordinem &c.* and for the more assurance, as a mark of their being orthodox, ∵ did hold communion with the Catholick Bishops of any one seat there remembred, as *Damasus of Rome, Nectarius of Constantinople, Pelagius of Laodicea, Diodorus of Tarsus, Optimus of Antioch, &c.* omnes autem qui ab eorum quos commemorationis specialis expressit fide communionis dissentunt, ut manifestos hereticos ab ecclesiis expelli. Which note^o Iustinian likewise in the year 541. having prescribed, goes farther, that *sacram communionem in Catholica ecclesia non percipientes à Deo amabilibus sacerdotibus, hereticos juste vocamus.*

4. Before these lawes, it is not to be wondred if every one desired to be joyned in communion with some one of those seats, whose Bishops were so recommended, for conserving the Apostolick faith, for the sanctity of their manners, and for keeping schism out of the Church; which being usually joyned with sedition in the Commonwealth, & Princes seem to have an especiall eyewhow^p it might be avoided, but after these Edicts they certainly did it much more: and there being in the world no Bishop more famous then the *Roman*, nor any other named in these parts of Europe then he, every one endeavoured to live united to that Church, whose form the Councell of Nice 325. (for before that, ∵ ad Romanam ecclesiam parvus habebatur respectus, as Pius secundus writes) approving in distribution of the ecclesiastick government, and Emperours now in point of belief, the *Roman* Chair became so eminent, as, for to shew themselves orthodox, many, especially of the *Latins*, did hold it enough to live in the communion of that See, and the Fathers in that Age to give high expressions of being in

^m Ibid. de
Hæretic. leg.
6.

ⁿ Ibid. de
fide Catholi-
ca leg. 3 & 2.

∴ Ibid. leg.
2, 3. Annu-
330, 381. &
ibid. dicitis qui
religione
contendunt,
leg. 6.

^o Novel.
Constit. 109.
in praefat.

^p Cod. Theog.
dos. lib. 15.
de his qui re-
ligione con-
tendunt, leg.
6. 3.

∴ Aeneas Sil-
vii Epist. 301.
in edit. Lug-
duni 1505. at
Bellarmine et
pist. 288.

²: Ambros.
Oratio de obitu
Satyrus.

³: Hieron. ad
Damasum e-
piſt.

... Gregor.
bib. 10. epift. 31.

⁴: Cod. Theo-
dos. lib. 16.
de fide Catholi-
ca leg. 2.

⁵: De Roma-
no Pontif. lib.
4. cap. 5. §.
Quod autem.

⁶: Recognit.
pg. 19 edit.
1608. Ingol-
fia.

⁷: Regul. 13.

union with it. :: S. Ambrose shewing the devotion of his brother *Satyrus* in a tempest, adds yet farther as a mark of it, *Advocavit ad se Episcopum* — *perconsatusque ex eo est utrumnam cum episcopis catholicis, hoc est cum Romana ecclesia, conveniret*: and S. ‘, ‘Hierom, a person very superlative in praising and reprehending, writing about the same time to *Damasus*, *Ego nullum primum nisi Christum sequens, Beatitudini tuae, id est cathedrae Petri communione consocior &c.* and in the year 602. a certain Bishop returning out of schism *spontanea voluntate* did swear, :: he in unitate sanctae ecclesiae catholicae, & communione Romani Pontificis, per omnia permaneturum &c. All which in time bred an opinion, that Chair could not entertain an error, and the beginning of the mark absolutely inverted; for those men who at first were, as others, sought unto & because they did conserve the religion S. Peter had planted in *Rome*, must in afterages be only held to maintain the same doctrine because they are in that See; so that the Doctrine did not commend the person, but the being in that seat, and recommended from thence, be it what it will, it ought to be received: insomuch as ⁷ Cardinal Bellarmine doubts not to write, *Si Papa erraret præcipiendo vitia vel prohibendo virtutes, teneretur ecclesia credere vitia esse bona & virtutes malas, nisi vellet contra conscientiam peccare*: for which he was afterward forced to an Apology; yet is not in my opinion so absurd as the ⁴ rule left by certain religious persons 1606. to their confidents at *Padoua*, containing *ut ipsi Ecclesiae catholicae* (understanding the Pope) *omnino unanimes conformesque simus: si, quod oculis nostris appareat album, nigrum illa esse definierit, debemus itidem quod nigrum sit pronuntiare &c.*

5. But to return whence I have a little digress't: it being plain by these lawes, the Emperours restrained points of Heresy to the Catholick Doctrine of the Father,

Father, Son and holy Ghost, the ground of the four first generall Councils; and others not to be esteemed hereticks: in which sense I conceive sundry of the ancients take the word; as ^a S. Hierome, when he says ^{¶ Hier. in all Hereticks leave God;} and *Socrates*, when he agrees such as ^x condemned *Origen*, finding not to blame his opinion of the holy Trinity, must confess he held the right faith: and *Leo* the first, when in an epistle about 449. ^{x iiii. lib. v. Soc.} he exhorts the Emperour *Theodosius* to consider the glory of *S. Peter*, the Crowns of the Apostles, ^y *et* *ctorumque Martyrum palmas, quibus alia non fuit causa patiendi, nisi confessio vere divinitatis, & vera humana statis in Christo,* doth intimate the true faith to be contained in that profession. After these restri-^{¶ Hier. in Jerem. 19.}
 tions in the declaration of Heresy, it is likely divers Sects grew very audacious, either conceiving themselves without the compass of law, or trusting in their friends and numbers; insomuch as *Arcadius*, *Theodosius* and *Valentinian*, in the year 395. were forced to declare, ^z *Hæretorum nomine continentur, & latissim aduersus eos sanctionibus debent subcumbere, qui vellevi argumento judicio Catholice religionis & tramite detecti fuerint deviare:* which ^z *St. Augustine* explains, ^{y Cod. Theo.} *eos utique hereticos appellant, qui non sunt communio-^{dof. lib. 16.}
 nis eorum*, as the Councell of Constantinople had before, taking the word in a larger sense then others had done. Upon which the *Donatists*, that were the most ^a furious, so as neither the persons nor goods of Catholicks that dwelt amongst them were safe, are more ^b severely censured in them, then others, whose opinions were certainly more dangerous, yet whom Emperours did think worthy of more favour.

6. But whilst Princes did thus by their lawes onely correct Hereticks, and the temporall Magistrate execute their commands, they did rarely think fit to proceed

^a *Ibid* leg. 5. ¶ *vide August.*
epist. 63. &
to. 7. contra
lit. Petil. cap.
83.

^b *Cod. Theo-*
dof. de Hæret.
lib. 16. leg.
37, 38, 39, 40.
52, 54, 65.

* I cannot but
with thelear-
ned Wesem-
bechius (in
cod. lib. 1.
Tit. 5. de Ha-
reticis &c.)
understand
those words,
Manicheos
de civitatibus
pellendis &
ultimo sup-
plicio traden-
dis, not to be
meant of ta-
king away
their lives;
though I am
not ignorant
Celsus the
lanyer so in-
terprets ul. i-
mum suppli-
cium ff. de
pœnæ leg.
21. fortis
what use were
the banishing
them the city,
if they were
to be instantly
executed? and

that law being taken out of Cod. Theodos. leg. 65. de Hæret. where those words are altogether omis-
ted, I conceive Justinian intended by them no other but those Capitales pœnæ that were morti pro-
ximæ, as metalli coercitio, in insulam deportatio, &c. ff. de pœnæ leg. 28. The like may
serve for answer to those other Rescripts in Cod. Theodos. de Hæret. leg. 9. 36. It is manifest
by many places of S. Augustine, as to. 7. contra lit. Petiliani, lib. 2. cap. 86. that there was
no law during his time against the life of an heretick; and Bellarmino himself confesseth as much,
de laicis cap. 21. § Augustinus. But however the matter is not great, being only against some
particular heretics, whose deportments may be thought to have been seditious as well as their Con-
science erroneous. c De Hæret. leg. 8. cod. Inslin. d Epist. 127. & Retract. lib. 2. cap.
5. e Prosper in Chronico An. 392. f To. 4. Anno 386. n. 23. Vide Iohan. Royas singular.
107. n. 6. Directorium Inquisitor. 2 part. cap. 27. p. 131. col. 1. par. 3. quest. 102. p. 702.
col. 2. edit. Rome 1585. vide formulas &c. ad finem praxis judicative Inquisit. p. 524. &
p. 526. g Direct. part. 3. in quest. 36. Franc. Pegn. comment. 85. p. 698. col. 2. Iohan. a
Royas singular. 107. n. 2. vide part. 2. n. 450.

7. It being then the course in the primitive times,
that in the proceeding against Hereticks, the Ecclesia-
stic

Nick did conclude what * *Tenets* were Heresy, and the Temporall whether the party accused were guilty of the imputation, and likewise of his punishment (as is manifest by imperiall constitutions, the writings of the ancient Doctours, the custome of the Catholick Church, that never prayed against Hereticks, but Heresy,) did so remain at least 800. yeares after Christ: but about that time the division of the Empire falling out, and Episcopall Consistories establisht through Europe, Bishops did begin to claim as matters ecclesiasticall, and onely proper for their Courts, the acting in those causes; which in some sort might be, so far as the determination what is Heresy did extend. And about the year 1000, the Christian world (as branches not bearing fruit in Christ, and therefore to be cast into the fire, *John xv. 6.*) began to take that way of punishing *Miscreants*; so in ^b Italy and France, *jussu Regis & universæ plebis consensu*, some were thus destroyed: and in imitation of Emperors, who had by their edicts prohibited all complyance with Heresy ^k so far, as to punish any lending for that end places to resort unto, ^l *Alexander the 3.* 1163. in a Councill held at *Tours*, & in another at *Rome* 1179. making very strict canons against Hereticks, declared, *eos & defensores eorum & receptores anathemati decernimus subjacere, & sub anathemate prohibemus ne quis ipsos in domo vel in terra sua tenere vel fovere, vel negotiationem cum eis exercere praesumat.* Of which the later being ^m registered in the Canon law, is the first ecclesiastick constitution in it I have observed to condemn rather Hereticks then Heresij. Soon after which :: *Publicani comburebantur in pluribus locis per re-*

T 3

gnm

ⁿ *The Inquisitors therefore of Spain in their Index au Madrid 1612. p. 37. col. 1. appointe to be bloted out. But this edit against the Pelagians of whom that Father speaks, is not now found either in the Codex of Theodos. or Justinian. But see Baro vius tom. 5. anno 419.n. 5753. kBaro. 10. Anno 1000. n. 4. i Ibid. 10. 11. Anno 1017. n. 4. kCod. Theod. de Hære. leg. 12, 21, 34, 36. c. 1. l Hoved. fol. 334. a. 42. & apud Neubrigens lib. 2. cap. 15. canon. 6. m De Heresij. cap. 8. n Ro- ger Hoyeden, Anno 1182. fol. 352. b. 29. in fine anni. .*

* Statute at
Leicester 2. H

s. cap. 7.

Here I

cannot

but ob-

serve, Possi-
donius in the
life of St. Au-
gustine cap. 18.

noting the
manner used
then in the
Catholick
Church in con-
demnation of
Hereticks,
conformable
to what is here
specified, adds,

Et hoc tale
de illis Eccle-
siæ Dei catho-
licæ prolatum
judicium ei-
tiam piissi-
mus Impera-
tor Horonius

audiens ac
sequens, si it
eos legibus
damnatos,
inter hereti-
cos haberi

debere con-
stituit, against
whic' some
had added in
the margin,

Cæsar pro-
nuntiat her-
eticos; but
that shewing
too apparent,

gnum Franciæ, quod Rex Angliæ nullo modo permisit in terrasua, licet ibi essent perplurimi.

n. D. scriptor.

*o Bernard. in
Cant. serm.
6. to. 1. col.
987. k. edit.
1586.*

8. Yet the pious men of those times seem not to approve of this rigour. St. Bernard, one of the most devout persons of that Age (*vir plane Apostolicus sayes Bellarmine*) following the doctrine of one much more Apostolick, ^o explaining *Cantic. ii. 15.* Take us the little foxes that spoil the vines, writes, *si juxta allegoriam ecclesiæ vineas, vulpes hereses, vel potius hereticos ipsos intelligamus, simplex est sensus, ut heretici capiantur potius quam effugientur; capient r̄ dico, non armis, sed argumentis, quibus refellantur errores eorum, ipsi vero si fieri potest reconcilientur Catholice, revocentur ad veram fidem — hoc denique velle se perhibet, qui non simpliciter capite vulpes, sed capite nobis, inquit, vulpes parvulas; sibi ergo & sponsæ suæ, id est Catholice, jubet acquiri has vulpes, cum ait capite eas nobis.* and a little after, *Quod si Hæreticus reverti voluerit, nec convictus post primam jam & secundam admonitionem — erit devitandus.* Thus the holy men of the Age in which they stopt first mens mouths not with arguments but armes, did judge of it: and indeed we have not many examples of any suffered meerly for conscience till after 1216.

*p Paramo de origine Inquisiti. lib. 2. Tit. 1. cap. I. n. 7.
p. 90. Simanca Cathol. Influit. Tit. 25.
n. 4. p. 182.
Rome 1575.
q Paramo de origine Inquisiti.*

9. In which year, as some write, *Innocentius 3^m.* ^p on the ignorance or remissness of Bishops in prosecution of Hereticks, did give beginning to the ^q erection of a new Court, called since the *Inquisition*: of whose institution and use, because it hath highly served to the raising the Papacy, it will be necessary to say something. He therefore at that time appointing *Dominicus a Spaniard*, founder of the *Dominican Order*, by a Commission delegated from him, his Inquisitor against the *Albigenses* in *France*, (without abrogating the power of Episcopacy in that kind) gave to him, onely a private Friar, such a power, as caused divers of them to be destroyed by that authority in another Princes Dominions. Though such as

I have seen do conclude the authority he exercised to have been from *Innocentius 3^{us}*. yet of the time when it was granted they do somewhat disagree. *Franciscus Pegna*, a Spanish Doctor, who publisht his annotations on the *Directorium Inquisitorum* at Rome 1585. yet it seems I could not secure himself from them, ^a holds it to have been first committed unto him about 1200. on the other side *Paramo* of the same nation, that was himself an Inquisitor in *Sicily*, and exprely writes of that subject, is ^b "clearly of an opinion it could not be before the conclusion of the Councell of *Lateran*; and for proof gives in my judgement a very probable reason, *viz.* That no Papall Decretall, or History preceding, did ever name any such Inquisitor, that very ^c Councell when it treats of Heresy speaks of no other Judge then the Bishop: now it ending about *Easter 1216*. (^d as I shall shew hereafter) if granted by *Innocentius*, it must be at some time between *March* and the 16. *July 1216*. when that ^e Pope dyed. Yet I cannot omit that ^f *Camillus Campadius*, in his additions to *Zanchinus*, speaks as if after that Councell Friar *Dominick* had not his authority from the Papacy immediately, but from one *Bertram* or *Bertrand* a Cardinall Priest: but who that *Bertram* was, I confess I have not been able to satisfie my self. ^g *Ciaconius* remembers one of the name employed against the *Albigenses*, promoted to that honour by *Innocentius 3^{us}*. 1212. but he styles him onely a Cardinall Deacon; as he hath another so called that was a Priest, but he was no Cardinall, till *Honorius 3^{us}* in December 1216 preferr'd him to the honour, so was not capable of serving Pope *Innocent* in that degree.

10. But whosoever first began it, *Frederick the 2d.* certainly much augmented their power, ^h publishing the-

^{ol. I.} ^c Vide Bull. *Innocent.* 4. dat. 11. Kalend. *Iunii Pontific.* ANNO 11. 1254. in bullario a Francisco Pegna edit. ad calcem Directorii, p. 16. ^d *Alexandri* 4. *ibid.* p. 34. ^e *Clementis 4*ui.** *ibid.* p. 57. &c.

^a *Franciscus Pegna, Ludovicus a Paramo, Famianus Strada de beate Belgico lib. 2. p. 41. in fol.*
Rome 1640. f Offat. Epist. 59. Rome 5. Jun. 1596.
^b *In Director. part. 3. comment. 32. p. 495. col. 1. b.*
u De origine Inquisit. lib 2.
Tit. 1. cap. 1 n. 13. cap. 2. n. 3. p. 96. col. 2.
x Cap. 6, 7, 8. y Cap. 8. n. 36.
^{z Urspergen- lis p. 321. obiit apud Per- rufum 1216.}
^{16. calend. Augst.}

^a *Edit. Rome 1579. p. 149.*
concilio absolu- luto Bernardus presbyter car- dinal. ipsum legationis of- ficium obtinuit, qui pr. decefforum exemplo B. Dominicum. Inquisitorem similiiter insti- tuit.
^b *Alphonsus Ciaconius de Cardinalibus, Roma 1630. p. 650. col. 1. & pag. 663.*

the 22. of February 1224. three lawes at Padua, by which he did constitute the Dominicans Inquisitors through the Empire, yet taking all others under his protection; and appointing such as should be convict of Heresy, *ut vivi in conspectu hominum comburantur, flamarum commissi judicio, &c.* That these edicts were publisht at the onely instance of Honorius 3^m. is very probable, in that they are not any way ^d recorded but in papall bulls *quoad verba*, (∵ as I shall shew hereafter.) After which, severall persons in divers parts proceeded against them by commission from Rome: so as the Bishop, who was the ordinary detector of Heresy, had little to do, and became daily to have lessie and lesse; that although his power be not in those cases absolutely taken off, yet it is so impaired, as it gives place to the Inquisitor; insomuch as if one suspected of Heresy be cited by him and the Bishop ^e at the same time, his appearance must first be in the Inquisition: and the reason given is, because they have a power by a delegated commission from the Pope, ^f whereas to the other *jure divino haec cura incumbit in haereticos inquirere*; and ^g Simanca yet more plain, *Cum Episcopi non habeant secretum carcerem, nec ministros idoneos ad procedendum adversus haereticos, non possunt servare ordinem illum qui prefinitus est Inquisitoribus: quam ob rem usque et tantum procedere debent, ut in haereticos vel suspectos inquirant, & summariam probationem Inquisitoribus secreto mittere debent.* So that what power the Bishop hath in this kind from Christ, he is now become little other then agent or substitute to the Inquisitor in point of Heresy.

11. But these Commissioners exercising their auctority with Fire, Tortures, and the like, in short time found themselves infinitely mistaken, in expecting by such violence to render that peace in the Church, and obedience in the world, the primitive Fathers by the truth of their Dictats, evidence of reason, and piety of their lives, drew

^d In sexto
de hereticis
cap. 18. Glossa
ad leges
quaefdam.
i. n. 18.

^e paramo d:
potestate dele-
gate lib. 3.
Quæst. 2. n.
109. p. 536.
col. 1.
^f Ibid. lib. 2.
cap. 2. n. 11. p.
133. col. 1.
^g Instit. Ca-
thol. Tit. 25.
n. 5.

drew men unto : for in some places they were ^b expell'd by the peoples fury, hardy any where continued but by strong hand ; their carriage being so full of Scandal, as *Clement* the 5. in the Councell of Vienna could not but acknowledge they had so exceeded the power committed to them by the Apostolick See, ⁱ ut quod in augmentum fidei per circumspectam ejusdem sedis vigiliam salubriter est provisum, (dum sub pietatis specie gravantur innoxii) cedat in fidelium detrimentum. For these men took upon them under the Pope, not onely to construe what was heresy, or complying with it, but on those imputations to imprison, fine, confiscate mens goods, to the destruction of honest people, and families ; which forced some States ^k to limit their proceedings, barre them of prisons proper to themselves, and the wise *Venetian* appoint three Senators to supervise their actions : insomuch as this delegated power did so decline, as notwithstanding the many constitutions of *Innocentius* 4th, *Alexander* the fourth, and severall other popes yet extant for regulating of it, out of *Italy* it was little taken notice of; ^l in *Spain* it remained obscurum debilitatumque, till *Ferdinand* and *Isabella* 1479. by agreement with *Xystus* 4. or, as^m others, 1484. with *Innocentius* 8. did so renew it, as ⁿ *Simanca* doubts not to write, they did introduce it into that Kingdome : which I conceive to be in respect of the alterations in the proceedings now used to those were formerly ; for that tribunall, in preceding times committed from the Papacy to Friars regulars (who most depended on *Rome*,) and therefore said to be the Popes Court, is since by this concord become in effect no other then the Kings, being recommended to the care of Clerks secular and Lawyers, the *Dominicans* who formerly governed it altogether excluded, unlesse where the Inquisitors require their counsell.

12. The style or manner there used being, that his

^h Vide additiones a*l*
Lambertum
Schafnaburgensem anno
1232. T item.
Chronic. Hir-
saug. anno
1214. p. 223.
or anno 1233.
p. 235. Mat.
Paris Anno
1236. p. 429.
anno 1238. p.
482. Munst-
eri cosmograph.
p. 477.
ⁱ In *Clement.*
de *Hereticis*,
cap. 1.
^k Vide Gio-
vanni Villa-
ni lib. 12. cap.
57.

^l Paramo de origine Inqui-
si. lib. 2. Tit.
2. cap. 2. n. 13.
p. 133. or
cap. 3. n. 5. p.
136.

^m Francisc.
Pegna in Di-
rector part. 3.
com. 32. p.
49. col. I.
ⁿ Cathol. In-
stit. Tit. 34.
n. 5. See Pe-
gna ubi supra.

• *Vide Paramo de origine Inquisit. lib. 2. Tit. 2. cap. 4. per totum : & Simanca ubi supra, Tit. 34. n. 6, 7.*

May o names an Inquisitor generall, whom the Pope approves, and after is not at all admitted to interpose ; for that Inquisitor nominates a Councell, of which himself is President, for number and persons as the King likes (as sometimes five, to which Philip the 2. added two more,) and these be of the gravest divines of Spain, e- ver residing at or near the Court, who compose all differences arising in particular Courts, receive all appeals, punish the defect of agents, and relates to none but the King. Of this Councell, as I said, the Inquisitor generall is President, whose authority is very ample ; for he nominates all provinciall Inquisitors and their Officers, (who yet enter not on their charges but by the Kings allowance) whom on occasion he removes and punishes, releases all penances, appoints visitors over particular Courts, and though he be directed by the rule of the Canon Law and papall bulls, yet on occasion va-

p *Instruct.*
Hijpal. cap.
28. ut citatur
2 Paramo p.
146. col. 2. n. 4.

ries from them, as is manifest by p these Instructions, Relinquendum est arbitrio & prudentiae Inquisitorum, ut procedant juxta juris dispositionem in his que hic non expresse declarantur, is answerable to none but the King,

q *Adriani Hift. lib. 19.*
p. 1341. &
ibid. lib. 18. p.
1273. Illescas
Hift. Pont.
Madrii 1606.
lib. 6. in Pio
4. fol. 342. a.
col. 2.

admitting the Pope either very little or not at all : insomuch as q *Pius 4th. 1565.* sending the Cardinall *Buon compagno* into Spain, upon the cause of the Archbishop of Toledo, committed by the Inquisition there six yeares before on an imputation of heresy, the Kings counsell liked not he should alone examine that Prelate, without joyning two Spaniards both in the processe and sentence. Neither did that State receive the Councell of

Trent 1564. by other authority then the Kings onely, who by his edict of the 12. of July commanded the Cardinalls and others of his Clergy to observe it, without making any mention of the Pope. So that in that Kingdome this Catholick Prince doth not take on him much less over Ecclesiastick Courts and causes then the King of England, however he do not style himself Head

of the Church. And therefore ^x *Simanca* speaking of this Inquisition, plainly says, *Ferdinand and Isabella iudicavit ordinem quo etiam hodie utimur magna ex parte instituerunt.* Insomuch as if we meet it at any time termed the *Popes Court* there, it is, no question, but a nominall appellation, of that is neither subiect to his rules, nor to follow his commands, but as another will.

13. But this Court in *Spain*, and other places conforming themselves much to the papall interest, is become very infamous, things being carried in it, as we read in ^f *Mons^t de Thous* excellent history, *prepostera iudiciorum forma, contra naturalem aequitatem, & omnem legittimum ordinem, — tum etiam immanitas tormentorum, quibus plerunque contra veritatem, quicquid delegatis judicibus libebat, à misericordia & innocentibus reis, ut se cruciatibus eximerent, torquebatur.* And indeed the directions Popes have set them, do not agree I think with the practise of any standing Court of Justice the world ever saw: as that of ^t *Innocentius 4th* and ^u *Pius 4th*, that no man shall know the names either of his accuser or that testifies against him, which ^x *Camillus Campegius* will not have communicated to those learned men th' Inquisitors shall call to their assistance in judgement. Another ^y of *Pius 5th*, that no declaratory or definitive sentence in favour of the accused, though after a canonically purgation, posse facere transitum in rem iudicatam, but that they may again proceed ^z *tim de antiquis quam noviter super eisdem articulis*: which in effect is no other, but that a man once accused before them can never be freed. Of a third of the ^z same Pope, that whosoever should strike or terrify any belonging to the said Office, (even a Notary or servant) should assist any to escape, imbezzle

^t *Cathol. Ist. Tit. 34. n. 5.*

^f *Hist. lib. 3. p. 81. Anno 1547.*

^t *Apud Eymericum Director. Inquisit. par. 2. p. 145.*

^u *Bulla 1 ii 4. cui iniunxit cum sicut. à Francisco Pegna post Directorum edita p. 62.*

^x *Constatet asserere a deo, quod nec ipsis peccatis tot. s processus integraliter cum nominis b.s & circumstantiis*

any writings of that Court, besides the being by that Bull declared *Anathema*, should be guilty of treason, and suffer according as men found culpable *in primo capite dictae legis*, their children subject to the paternall infamy, to be not onely incapable of succeeding in the fathers inheritance, but of receiving any legacy from friend or stranger, or attaining any place of dignity whatsoever; and others of the like nature, too long to be insisted on.

14. Certain it will not be easy (at least to my understanding) to prove these proceedings of a Court Christian to agree with those rules and examples Christ himself hath left us in holy Scripture: but the pursuing these Maximes, and the like, hath brought a great obloquy upon this Court, so as it is held an undoubted truth, the Inquisition under the *Spaniard* hath an eye rather to
 a empty the purse, and is upholder more for temporall ends, then to cure the conscience. And to this purpose it may not be here unsittly remembred, that a *Spanish* Inquisitor, employed by *Philip* the 2. into *Sicily*, writes, it is found amongst the records of that Kingdome, :: *quod quando in anno 1535. fuit limitata seu suspensa jurisdictione temporalis hujus sancti officii in aliquibus casibus per invictissimum Carolum sum factis memoriae, jurisdictione spiritu-alis causarum fidei fuit in suspenso, & quasi mortua*: which I take no other then a confession, the Church, which it maintains, without the temporall power would fail and come to nougnt; as indeed ^b *Cardinall Bellarmine* somewhere in effect confesseth, that to restrain ecclesiastick jurisdiction to spiritualls, that pertain to the soul, is to reduce it to nothing.

15. But because I am here entred upon this fining or confiscation of the goods of a Lay person by a spirituall judge, on the conviction (or rather imputation) of Heresy, it will not be amiss to see how the Ecclesiasticks have gained that addition to the power left them by *Christ*; which is so necessary, as without it, that onely

^a *Adriani lib. 17. p. 125 8.c. His. Concil. di Tr. n. lib. 8. p. 776.*

:: *Taramo de origine In- quis. lib. 2. cap. 11. n. 17. p. 203.*

^b *Risposta ad fol. 22. Apolog. del Padre Paolo p. 25.*

was committed to them from him, which the ancient Fathers practis't, would be as it were dead. It cannot be denied, Princes did in former times by their edicts impose pecuniary penalties on some actions concerned religion; so did ^c *Theodosius* 392. on such as did ordain or were ordained in *Hereticis erroribus*; which law a ^d Councell held in *Africk* about 404. (provoked by the inhuminity of the *Donatists*) did petition th' Emperour *Honorius* might be of force against them: but never any holy Bishop of those times took upon him to confiscate any mans estate for his opinions, much lesse to damnify the son for the fathers *tenets*; and the lawyers do expressly resolve, ^e *sipœna alicui irrogatur — ne ad hæredes transeat*, and give this reason, ^f *Pœna constituitur in emendationem hominum, quæ, mortuo eo in quem constituvi videtur, definit*; again, no man is *alieni criminis successor*: and accordingly, many ^g imperiall constitutions do expressly provide, the Catholick children of hereticall parents (though the father were deprived of them) should succeed in their paternall goods; and thus it stood for ought I know for above a 1000 years, the Christian world thinking it hard the son should suffer for an erroneous perfwalson of the father, neither did ever any holy Bishop for that space (unlesse as Deputy to some Prince) take upon him that way of punishing, and if any did, it was not approved in him.

16. In the year 1148. ^b th' Archbishop of *Canterbury* called by *Eugenius* 3^{us} to a Councell at *Reims*, the King denied him passage; yethe stole thither; for which on his return he was expell'd *England*: into which notwithstanding he got, shrouding himself, as it seems, in those tempestuous times, and to make himself the more formidable, interdicted divine service through the Kingdome (which is the first experience the nation ever had of that censure.) To this the Prior of S. *Augustines* refused to yield obedience: and th' Archbishop having

^c *Cod. Theod. de Hæres leg. 21.*
^d *Concil. Afric. cap. 60. &c.*
^e *Baron 10.5. Anno 404. n. 123.*

^f *ibid. &c. leg. 26.*
^g *Cod. Theod. de Hereticis leg. 40. lata Anno 407. in Cod. Iust. tit. eodem leg. 4. 19. lata Anno 530. &c. in Authenticis Novel. I. 5. cap. 3. §. 1. 4. lata Anno 541. &c.*

^h *Vide Ger- vas. Doro- bern. col. 1363, 1364, 1366. I. 1656. 20. Willielmus Thorn col. 1807. 52. &c.*

ⁱ Thorn, col.
180, 63.

^k Thora,
180, 55.

^l Depens, cap.

3.

^m Apud Ro-
gerum Hove-
den fol. 334
B. 3. & con-
cil. general.
Rome cap. 3.
p. 23. col 2.

ⁿ De Hæreticis
cap. 8.

^o Hist. minor.
Anno 1217.

^p De Hæret.
cap. 10 &
Regist. Inno-
cent. 3. lib. 3.
epist. 1.

^q Cod. The-
od. de scirris
leg. 3. & Cod.
Just. ad le-
gem Iuliam
Majestatis
leg. 5. §.
Filiij.

now made his peace with Stephen, got the sentence confirmed from Rome; upon which ⁱ omnes seculares in hoc monasterio servientes, præter censuram ecclesiasticam, ad gravem pecunie redēptionem, contra juris æquitatem & sanctorum patrum decreta, coegerunt. On this complaint being made to the Pope, he writ unto him, ^k Sicut nobis significatum est, homines ejusdem monasterii, pro participatione excommunicatorum, præter ecclesiasticam pænam fuerunt ad redēptionem coacti; and thereupon commands him, quatenus omnia quæ hac occasione sunt eis ablatæ sine vexatione restituī facias, nolumus enim ut nova in vestra ecclesia inducantur &c. so that certainly it did but

then begin to bud: & after 1160, Alexander the 3. ^l condemns the use of the Archdeacons of Coventry, who pro corrigendis excessibus & criminibus puniendis, à clericis & laicis pænam pecuniariam exigunt, affirming it seemed to proceed de radice cupiditatis & avaritiae: yet the same Pope in a ^m Councell at Rome 1179. appoints the goods of hereticks to be confiscated, but gives not at all any authority to the spirituall judge in the execution of it; and at the compiling of the Decretalls by Gregory the 9. ⁿ that particular is omitted.

17. But not long after Innocentius 3, that vere stupor mundi and immutator seculi, as ^o Matthew Paris styles him, about the year 1200 P appointed the goods of Hereticks under his jurisdiction should be confiscated, and out of it the like to be done by the secular magistrate, upon pain of Ecclesiastick censures; adding from certain ^q imperiall constitutions, that it being onely an act of mercy, that the children of such as commit trea' on have their lives spared, when they loose their goods, and the crime far greater to offend God then man, that the severity should not give scandall to the faithfull, in seeing children exposed to misery for the parents offence, there being many cases wherein according to the divine justice sons may be punish't for the fathers fault, which he leaves

leaves the Canonists to justify by th' examples of Chanaan, the children in Sodom, of Achan &c. as I do the reader to seek in them. But it seems to me an hard glass, from prophetick speeches of the primitive times, or extraordinary examples, when God himself directed what he would have done, for us now to conclude a practise lawfull contrary to expresse precept, *Deut. xxiv. 20. Ier. xxxi. 30. Ezech. xviii. 20.* made good likewise by the ordinary use of those times. Besides, I am not satisfied with the reason, that temporall Lords punishing treason with the heirs losse of Estate, Heresy being an offence of the same or a worse nature against the Divine Majesty, children ought so to suffer: For doubtlesse all treason against a Prince presupposeth malice to his person or government, (and therefore we do not read that for meerly casuall misfortunes, such as *Tirrells* in *England*, or *Mongomeries* in *France*, men have been so punisht) and for that they take away the offenders life upon the first fact, which th' Ecclesiastick pardons: now questionlesse Heresy is out of an erroneous opinion the holder hath of pleasing God.

18. This of *Innocentius 3^m* I take to be the first pall constitution in the kind; yet some 16. yeares before it, divers of severall qualities being discovered in that part of the *Netherlands* was then within the province of *Reims*, the Archbishop and Earl of *Flanders* joyned in an edict, *ut deprehensi incendio traderentur, substantiae vero eorum sacerdoti & principi resignarentur*. After this in the Councell of *Lateran* 1215. under the same Pope it was again establisht, *bona dominorum [de heresi] si laici fuerint, confiscentur; si vero Clerici, applicentur ecclesiis à quibus stipendia percepereant &c.*

Nine yeares after which *Fredericus 2^{dus}* publisht those lawes at *Padoua*, of which before, in which he did especially establish the confiscation of their goods, and is the first imperiall constitution of that kind; which remain

^r Alphonsus à Castro de justis heretico-rum punitione, lib. 2. cap. 11. Simancas In-slit. Catol.

^t Tit. 9. n. 5. 6.

Ioh. Royas singular. 66. n. 5, 6. Vide St.

August. lib. 6. Question. 8.

super Ios. 10. 4.

^s 2 Kings xiv. 6.

^z Chron. xxv. 6.

^t De Hæret. cap. 9.

^u chronicon Aquicinctum à Miræo 1608. editum ad calcem Sigeberti Gemblacensis & aliorum,

p. 226. anno 1183.

^x Concil. Lat. cap. 3. & de Hæret. cap. 13.

y Eduntur à
Francisco
Pegna, ad fi-
nem Directorii.

z De Episco-
pali audienc-
tia, cap. Sti-
tuimus, & de
Hæret. Mani-
chæsis, cap.

Gazatas &c.
a Apud Para-
num de origi-
ne Inquisi-
tio. lib. 2. tit. 2.
cap. 11. n. 8.
p. 198.

b Bul. Innoc.
4. dat. idibus
Maii 9. Pon-
tif. cui initium
Ad extirpan-
da &c. m
bullario. et à
Francisco
Pegna ad fi-
nem Directorii,
p. 11. §. Tene-
atur.

c Ibid. p. 37.
§. Teneatur.
dat. Anagnia
2. Kalend.
Decem. 1259.

d Ibid. p. 65,
§. Teneatur.
bulla Clem. 4.
dat. Perusie 3.
Non. Novemb.
1. Pontifcat.

e Annal. ecclæ-
siast. Renaldi
10. 14. Anno
1297. n. 41.
f De hereticis
in sexto cap.
19. vide cap.

17, 18.
g Extrav com-
mun. cap. 1.

no where now entire save in some 2 papall bulls, as of
Innocentius 4. Alexander the 4. and Clement the 4. as is
noted in *Gloss. de Hæret. cap. 18. in sexto ad verb. leges*
quasdam: yet some part of them are now inserted into
z the Codex of *Justinian*, under the titles of *Authentica*
or *nova constitutio Frederici 2. de statu & consuetud. &c.*
as I have touched before.

19. But these lawes, though they confiscated the
goods of Hereticks, did not appoint how they should
be employed; insomuch as the same Emperour, being
that very year 1224. at *Palermo* in *Sicily*, ^a expressed his in-
tent to all his Officers through the Empire, but more espe-
cially in that Kingdome, that whereas formerly his Exche-
quer did receive the benefit of those confiscations, they
should be divided into three parts, viz. one third *Fisco*, a-
no other *Apostolice sedi*, & the other third *eisdem Inquisitori-*
bus. After which ^b *Innocentius 4^m* 1252. did appoint a dis-
tribution in some sort imitating him, as did likewise ^c *A-*
lexander the 4th, including as liable to the same punish-
ment such as were receivers of Hereticks: to ^d which
Clement the 4. 1265. added, that the houses in which
Hereticks were found, to be destroyed without hope of
reedyfying, the materialls sold, and a threefold division
made, &c. These deprivations confined hitherto to *Ita-*
ly onely, *Boniface the 8.* 1295, or rather ^e 1297, pub-
lishing the sixth book of the Decretalls, made generall, de-
creeing, *bona Hereticorum ipsojure decernimus confiscata:*
whereupon, and some other by him then inserted into
the Canon law, Bishops laboured to draw from th' Inqui-
sitors part of the profits thus distributed; but ^f *Benedict*
the 11. 1303. did absolutely prohibit that, *tanquam juri*
absolucionis. After which, because (as it seems) the Clergy
were not free from prosecuting men onely for their e-
states, *Clement the 5th* in the Councell of *Vienna* 1311.
strictly ^h enjoyned, *ne praetextu officii Inquisitionis, qui-*
busvis

busvis modis illicitis ab aliquibus pecuniam extorqueant;
and likewise, ne scienter attentent ecclesiarum bona, ob
clericorum delictum, prædicti occasione officii fisco etiam ec-
clesie applicare; changing what the Councell of Laterat^z
 had before establisht.

20. Yet notwithstanding this grave admonition of the Pope, their Agents did not carry themselves without scandall in this kind, by reason of an ⁱ outrage arising from a *Franciscan Inquisitor* 1346. in *Florence*; a Scrutiny was had of his actions, and found he had raised from the Citizens 7000 florens of gold in two yeares, as compositions, or fines, upon the imputation of Heresy, yet never lesse in the town; but any erroneous or lesse cautelous word was censured as criminall. This drew the *Florentine* to conform themselves to the usages of *Perugia, Spain*, and other parts, in making a law, no Inquisitor should condemn any Citizen or borderer pecuniarily, but if an heretick, send him to the fire. By which we may gather, these bulls were not generally received in the world; forthen in *Spain* th' Ecclesiastick did not fine men, and now the King there hath the benefit of those confiscations. In ^k *France* they do not to this day impose on the Laicks *amendes pecuniaries*, but onely on the Clergy, which must be expended *en aumosnes* and *ouvres pitoiables*, not to the enriching themselves, &c. Neither doth the wise *Venetian* permit confiscating of estates to arise from any sentence of theirs, but that is to devolve to the next heir. I do not here mention the constitutions of *Boniface Archbish. of Cant.* 1260. nor of *Stratford* 1343. in this kind; because of the first little reckoning was made, and the second did onely refer to commutation of penance, which the law allowes: he that would may find them in *Lyndwood lib. 3. de immunitate ecclesie cap. Accidit*, and lib. 5. *de paenit. cap. Evenit.*

ⁱ Giovanni
Villani lib.
12. cap. 57.

^k *Arrêt de la*
court de Par-
liament à Pa-
ris 27. Jun.
1542. *habetur*
in libro des
preuves des
libertes de l'ef-
glise Gallicane
cap. 38. n. 9.
p. 1082. -

21. If any ask a cause, why the ancient Fathers did proceed with so great lenity against blasphemous here-

I August. E.
p. 68.

m August.
contra lieras
Petilianii Do-
nat. lib. 2. cap.
83.

n XIX. Arrianus: mi-
treyvantes eis en-
se. Socrates de
Chrysostomo
lib. 6. cap. xii.
lat. 19.
o De Hereticis
cap. 9. & iii.
codem cap. 4.
in Sexto. Si-
manca Instit.
Cathol. Tit. 57.
n. 10.

p Mat. xviii.,
22.

q Aeneas Syl-
vius histor.
Bohemica cap.
35.

r Cognitio
hereticis &
ipsius puni-
tio pertinet
ad episcopos.
Lyndwood
de H. reuictis
cap. item
quia, verbo
Ordinarii.

ticks, as the *Arrians*, *Nestorians*, &c. why, when the^t Emperour would have punish't the furious *Donatists* with a pecuniary mulct, the holy men of those times so earnestly interceded as to procure the remission, and did requite their fury with such love & meeknesse,^m as to be able to say, no one of them had payed what th' imperiall edicts might challenge; when of late yeares men have been brought to the fire, children exposed to misery by the loss of their parents estates, even by Bishops and other of the Clergy, whose opinions were neither so blasphemous as the *Arrians*, nor their comportsments so inhumane as the *Donatists*: why they preached, menⁿ relapsed, even to a thousand times, might yet live reconciled to the Church; when as now such as have renounced an opinion *Rome* calls heresy, being after found to hold it, is^o *seculari judicio sine ulla penitus audientia relinquendus*; which yet is not obserued if he be a Prince, as was *Henry* the 4. or perhaps a private man out of their power:

22. To these demands I can give no other answer, but, that their offences being against the holy Trinity, the pious Bishops of those times, as men who watched for soules, did content themselves to denounce what was heresy, but having done that, finding it not received, to leave the punishment to him who assures it shall go worse with *Sodom* and *Gomorrah* then those refused their instructions, and under him to the Secular magistrate; did likewise follow his precept, in forgiving even to^p seventy times seven times: when on the other side, the opinions of these later hereticks (as they call them) be rather against men and their Institutes, then God, as that^q *Romanum prasulem reliquis episcopis parem esse, Purgatorium ignem non inveniri, Celebritates sanctorum rejiciendas, Iejunitis ab ecclesia institutis nihil inesse meritum &c.* and a persuasion gained, none but the Ecclesiastick can^r punish Heresy, who judge the opposer by the law of man, howbeit they style it Christian, yet how it agrees with divinity

nity I remit to the Canonists decision. In the mean time I cannot but observe, ^t *Simanca* finds nothing out of ^{scathol. Instit.} holy writ, but onely in divine *Plato lib. 10. de legibus*, to ^{Tu. 57.} maintain the position that *semel tantum hereticis pænitentibus parcitur &c.*

23. This being then the proceeding against Hereticks in generall, it will be necessary to see how it was formerly in *England*, and how the Queen found it. First, it will not be unfit to premise, ^t that from the Conversion of the *Saxons* to the year 1166. no heresy was ever known to have been in *England*; insomuch as we may safely conclude, whatever doctrine we meet with in the publick homilies of the Church, or other writers of elder times, must be esteemed catholick, however it now stand censured: but in that year about xxx *Dutch* came hither, that detested baptism, the Eucharist &c. who being convict by Scripture in an episcopall councill called by the King at *Oxford*, were remitted to his disposition, that caused them to be whipt, and burnt in the face, and a command given none should either receive or relieve them, so that they miserably perisht: which severity his Ma^y did not think fit afterward to extend to those were then called *Publicani*, as I have before shew'd, ^u n. 7. though there were many in his dominions.

24. For the punishment of Hereticks, it cannot be doubted by the common Law (that is the custome of the Realm) of *England* to have been here, as in other parts of the world, by consuming them by fire. ^x *Balaus*, from the testimony of a chronicle of *London*, reports one of the *Albigenses* to have been so made away there 1210. to which the :: learned *Camden* seems to allude, when he sayes more dyed in Queen *Maries* time, then this nation had seen *ex quo regnante Iohanne Christiani in Christianos apud nos flammis sevire cœperunt*. The same *Paramo* saith is made good by an epistle of *Tho. Waldensis* to *Martin* the 5. but I have not seen it; I am sure in

^t *Neubrigen-sis lib. 2. cap. 13.*

^x *Descript. Brit. Cent. 3. cap. 65. in Appendix. :: Apparat. Elizab.*

y Lib. 3. de
corona cap. 9.
n. 2. fol. 124.
a. Britton cap.
9.

z Lib. 1. cap.
29. in fine,
p. 46.

that *VValdensis* I use it is not found. But of the truth of the thing there is no question; for *Braeton* writes of an Apostate Deacon, that in a Councell held at *Oxford* 1222. by *Stephen Langton* was first degraded, and then by the Lay committed to the fire: with whom for the thing agrees *Fleta*; yet, by the way, where you read in him *per manum comburentur clericalem*, it is to be *Laicalem*, for so is *Braeton*, out of whom he transcribed it, agreeing with the continuall practise both of this and other nations; for the Clergy meddles not with execution.

25. In *Edward* the 3^{ds} dayes, about the year 1347.

^a H. st. Angl. lib. 19. p. 382. ^a Polydore Virgil testifies two *Franciscans* to have been burnt, *quod de religione male sentirent*. Neither did *Wiliam Sautry*, a relapsed priest, dye by any statute-law 2. H. 4. but convicted in a provinciall councell of th' Archbishop of *Cant.* the writ *de hæretico comburendo*, bearing date the 26. *February*, was by th' advice of the Lords Temporall sent to the *Major of London* to cause him be executed, ^b *attendentes*, sayes it, *hujusmodi hæreticos, sic convictos & damnatos, juxta legem divinam, humanam, canonica instituta, & in hac parte consuetudinaria, ignis incendio comburi debere &c.* But where ^c *VValsingham* speaks as if he dyed during the sitting of the Parliament, by vertue of ^d the law then made against hereticks, the historian is without peradventure mistaken; for that Parliament, begun about the 20. *January*, ended the 10. *March* following, did expressly provide, on the petition of the Commons, ^e *qe touz les estatutz & ordenances faitz ou affaire en cest Parliament qe sont penalz, ne tiegnent lieu ne force devant le feste de Pentecoste prochain venant, les quels en le mesme temps puissent estre proclamez:* to which the answer is, *le Roy le voet*. So that certainly he could not dye by that law, which was not to take effect till so long after.

^c Rot. Parl.
2. Hen. 4. n.
29.

^b Rot. Parl.
2. Hen. 4. n.
29.

^c Podigma
Neustriæ an-
no 1401. p.
158, 29

^d 2. Hen. 4.
cap. 15.

^e Rot. Parl.
2. Hen. 4. n.
116.

26. But I confess I did a little doubt of two particulars:

lars: The one, whether by the common Law a Lay man could be sent to the fire for any conviction by the Ecclesiastick; for all the undoubted precedents I have met with (unless that of the *Albigenses* were otherwise) were of some Clerks, within the pale of the Church, that were so punish'd; and *Bracton* and *Fleta* both agree, *Clerici Apostatae comburantur*; whose words being penall, I conceived stricti juris not to be construed by equity. But indeed *Fleta* elsewhere speaks more generally, *Christiani Apostatae * detrectari debent & comburi*; and *Britton of Miscreants* so to be served, without distinction of the quality; with whom *S^r Edward Cook* concurs. Another thing I questioned, whether any Bishop with in his Diocese alone could convict one of heresy before 2. Hen. 4. cap. 15. (of which hereafter:) for whatever the power of the Ordinary was, there is very little example of his putting it in exercise before the times of *VVickliff*.

27. Who began to be taken notice of about the end of *Edward* the 3. or rather the beginning of *Rich.* the 2. in whose doctrine, at least that they fathered on him, though there were good Corn, yet was it not without Tares. But when it grew common, and to be hearkned unto, the Prelats laboured to procure s^t a law, his Maties Commissions should be directed to the Sheriffs and other his Ministers, to arrest all preachers, their fautors &c. to hold them in prison, till they will justify themselves according to reason, and the laws of the holy Church. How this past I should be glad to learn; for not onely ^b the printed statutes, but ⁱ the Roll of Parl^t expressly mentions the Commons agreeing to those Acts, yet the next meeting they do disclaim to have given any assent unto it, *qui est ne fuit, unges assentu ne grante par les coës, mes ce qe fuit parle de ce fuit sanz assent, de lour qe celuy estatut soit annenti*: to which the Kings answer is, *y ples^t au Roy*. How it fell out this latter was not counted an A^t, & *S^r Edward*

* I read it de-
trectari, not
as the print,
detraetari.
f Cap. 9. fol.
16. b.

g 5. Ric. 2.
cap. 5. fol. 2.

h 5. Ric. 2.
cap. 1.

i Rot. Parl.
lendemain Je-
han port La-
tin. 5. Ric. 2.
n. 13.

j Rot. Parl.
Octo. 5.
Michel. 6.
Ric. 2. n. 52.
k Cook Inst.
Cook 3. p. 41.

11 & 2. P.
or M. cap. 6.

Cook hath shew'd, which tells us why it past again without opposition in Queen Maries dayes. I wish that learned Gentleman had given his opinion how the record came to be so faulty, as to affirme a concurrence of the lower House to that they never assented.

m 2 Hen. 4.
cap. 15.

28. In King Hen. the 4th time his successor, that law past, which greatly increased the power of the Ordinary, allowing him to imprison, fine, determine all causes of heresy, according to the canonickall Decrees, within three moneths: on which words Canonical Sancti-
ons the Bishops so behaved themselves, ⁿ That the most learned man of the realm, diligently lying in wait upon himself, could not eschue and avoid the same act and Canonical Sanctions, if he should be examined upon such captious interrogatories as is and hath been accustomed to be ministred by the Ordinaries of this realm, in cases where they will suspect of heresy &c. Upon which, if any did refuse obedi-

^{o CookInstit.} ence to his Diocesan in ought, ^o as paying a legacy &c.
^{3. cap. 5. p. 42.} there would be means found to bring him within the suspicion of heresy. And certainly the proceeding of some

Diocesans upon this statute gave quickly scandall: for onely nine yearesh after, we find the Commons petition,

^{.. Rot. Parl.}

^{11. Hen. 4.}
^{v. 29.}

^{.. qd please a nre souveraigne Seig' le Roy grantier, qd si aucun soit ou serra arreste par force de l' estatute fait l' an de vostre regne seconde, al requeste des Prelats & Clergie de vostre Royalme d' Engleterre, qd il purra estre lesse a mainprise, & faire sa purgation franchement sanz destourbance d' aucun en mesme le Conte ou il est arreste, & qd tieles arrestes soient defore en avant faitz en due forme de ley, par les Viscount, Mairs, Baillifs ou Conestables nostre Seign' le Roy, sanz violent affray, our force & armes, en depredation de leur biens, ou autre extortio ou injurye queconque en celle affaire. But to this, le Roy se voet ent avisé is all the answer given. But whereas ^{..} Walsingham speaks of this Parl^{nt}. as infected with Lollardy, certainly to me there is no such thing appeares in the Roll, but rather the contrary. But I confess}

^{.. Walsing.}
^{Anno 1410.}
^{p. 422.}

confesse I did think before that law of H. 4. no Bishop in his Diocese, without a Provinciall Councell, could have convicted any man of heresy, so as to have caused him been burnt; for mans life being a point of so high concernment in the law, and heresy laying so great an imputation on the party, it seemed not to me probable, every angry Bishop in his Court should alone have power of determining what was by the canonickall Sanctions so esteemed, and whose words or writings could admit no other sense then hereticall: and with this it seemed to me the practice did concur, for the Deacon burnt at Oxford suffered after conviction in a Provinciall Synod; and the conviction of William Sautry shewes plainly to have been after the same manner, & the Writ running, p Ror. Parl.
*Cum venerabilis pater Thomas &c. de consensu & assen-
 su, ac consilio coepiscoporum, ac confratrum suffraganeorum
 suorum, nec non totius cleri Provinciae sua, in concilio suo
 provinciali congregato, juris ordine in hac parte requisito
 in omnibus observato &c.* intimating (as it seemed to me) if otherwise, the Order of law had not been observed. And I did ever conceive this Law had increased the Power of the Ordinary, as well in permitting him singly to pursue the canonickall Sanctions in convicting an heretick, as in fining and imprisoning of him; especially the statute 1 of Q. Mary, that gave it life after the repeal of Hen. the 8, affirming, before such revivall the Ordinary did want authority to proceed against those that were infected with Heresy. But I have since found, better opinion it was otherwise.

29. After this 2. Hen. 5. s a Parliament at Leicester enacted, *The Chancellour, Treasurer, Justices of the peace, Sheriffs, &c. should take an Oath for destroying all manner of Heresies, commonly called Lollardries, to be assistant to the Ordinary therein; Persons convict of Heresy to loose their fee simple land; Justices of the Kings Bench, of the Peace and of Assize, to enquire of all holding any errors or heresies*

^{2.} Ror. Parl.
^{2.} Hen. 4. n.
^{29.}

^{q 1} & 2. P. 6
^{M. cap. 6.}

¹ Cook Inst.
^{3.} cap. 5. p.
^{39.}

¹ Stat. 2. Hen.
^{5. cap. 7.}

heresies as Lollards, their maintaineres, receivers, fau-tors, &c. and for that end a clause to be put into the Commissions of Iustice of the Peace: yet forasmuch as the cognizance of heresie, errors, and Lollardries belonged to Judges of holy Church, and not to the secular, the indictment taken by them not to be evidence, but for information before the spirituall Judge, into whose hands the person suspected to be delivered within ten dayes after his enditement; every man empanell'd in the Enquest for the tryall of them to have in England 5 pounds, in Wales forty shillings in land by the year &c. Which three lawes were each repealed by Hen. the 8th or Ed. the 6. and again restored by Q. Mary, under whom, by vertue of them, had in lesse then three yeares been spoyled for religion more Christian bloud of her subjects, then in any Princes reign since *Lucius*.

30. Things standing thus when Queen *Elizabeth* came to the Crown, the Ecclesiastick authority exercised at home and abroad with rigour and austerity, rather then Christian mildnesse; still to permit that, was the continuing a fire to consume her people, and yet for every one to think and do without controule what him list, was to let loose all reins of government, to leave open a door for sedition to disquiet her Kingdome, and the Commonwealth perhaps not to be ever in peace: her Maty therefore took a middle way to agree with the primitive times, and yet not let every profane humor distract the Church, by erecting a Court with power to visit, reform, redresse, order, correct and amend all such errors, heresies, schismes &c. which by any spirituall or ecclesiastick power, authority, or jurisdiction can or may lawfully be reformed, ordered, redressed, corrected, restrained or amended; yet restraining them from adjudging any thing to be heresy, that had not been heretofore adjudged such by the plain words of the canonickall Scriptures, or by any one of the first four generall Councells, or by any other generall

^t Stat. 1. Eliz.
cap. 1.

generall Councell, wherein the same was declared heresy by the expresse and plain words of the canonickall scripture , or that should hereafter by the Parliament with the assent of the Convocation &c.

From whence ariseth a question of some intricacie , how it came to passe those times spake with so great submission to the four first generall Councells, and yet so restrained the other, without expressing which they were, nor any other particulat concerning them. For the solution of which, we are to know, those have been ever looked on by the Catholick Church with more reverence then any other that ever yet were held. The * Emperour *Iustinian* 541. declared which they were , and that he did receive *earum dogmata sicut sanctas scripturas, & regulas sicut leges observamus;* who made not the like mention of the fifth, though ^x called by him, and held in his time. Neither did *Gregory the great*, who did reverence them, ^y *sicut sancti Evangelii quatuor libros*, make the same esteem of the fifth ; for having made honourable mention of it in a letter to a Queen of *Lombardy*, sent by a Bishop of *Milan* , the Bishop gave it her not , on an opinion she might be scandalized at his naming of it : upon which ^z S^r. *Gregory* sent him word he did well, and in that altered his epistle. And the year following , viz. 596 , .: the People of *Ravenna* opposing one *Maximianus* in being their Bishop, as not of sound belief, in that he did not carry so great veneration to the Councell of *Chalcedon*, he doth assure them of the contrary , that he did receive those four Councells, but makes no mention of the fifth. I do not deny but ^a the faith of the fifth and sixth were by this Church approved , yet never any of them had that great reverence yielded their dictats the first four had , which are therefore said to have been ^b *Synodi firmissimae* by *Elfrick*, in his *Canons to Wulfstan*.

^{32.} But these, however of this high esteem , yet had not the name of generall appropriated unto them till

- u *Novel.*
- 131. cap. 1.
- & in Cod.
- de summa trinitate & fide
- Catholica leg.
- 9.
- x *Concil. gen.*
- Rome*, to. 2.
- p. 524, col. 1.
- E.
- y *Gregor. lib.*
- 1. epist. 24.

- z *Gregor. lib.*
- 3. epist. 37.
- Lib. 5. In-
- dict. 14. epist. 2.
- a *Beda lib. 4.*
- cap. 17. Con-
- cil. *Calcutb.*
- cap. 1. apud
- Spelm. p. 293.*
- b *Canones*
- Ælfrici ad Wulfinum a-*
- pud Spelman.*
- Concil. Can.*
- 33. p. 581.
- vide Egberti*
- Archiepisc.*
- de sacerdotali*
- jure cap. 4.*
- ibid. p. 278.*

c p. 24, 7.
 d Anno 1044.
 p. 405.
 c Anno eod.
 fol. 180, 23.
 f Hunt. fol.
 226, b. 3.
 g Ger. Dor.
 col. 1369, 6.
 h Hoved. An-
 no 1044. fol.
 252, a. 35.
 Anno 1200.
 fol. 458, b.
 18.
 i Hist. minori
 & majori, p.
 131. 19.
 k Diceto col.
 585, 63.
 l To. 1. Con-
 cil. Con. Carth.
 3. cap. 7.
 concil. 4. in
 proem.
 m Ibid. Honor.
 Augusto &
 I amorido
 Cess.
 n Tom. 2.
 Concil. Crab.
 c. 20.
 o Ibid. in
 proemio.
 p Director.
 par. 2. quest.
 56. in fine p.
 q De rit.
 Ront. in An-
 selmo. fol.
 129, b. 30.
 r De penit,
 cap. ad haec,
 Verbo mini-
 me admit-
 tantur.

long after; for certainly that distinction was not suddenly brought into the Church, at least in that sense it is now taken, many Synods by our writers being styled generall, to which yet th' obligation was never of that nature, as if they did not or could not erre. ^c Eadmerus writes, *Anselm told William the 2, generale concilium Episcopo- rum ex quo Rex factus fuisti non fuit in Anglia celebratum*: and the like phrase is used very frequently for English councells not onely in him, but in our other eldest and best historians, as ^d Flor. *VVigorniensis*, ^e Simeon *Dunelmensis*, ^f Huntington, ^g Gervas. *Dorobernensis*, ^h Hoveden, &c. ⁱ Mat. Paris speaking of a councell held at *WWestminster* 1175. calls it *Concilium generale*, which in ^k Diceto is changed to *Concilium Regionale*, and in the margin added (out of the Ms. copy sometimes belonging to ^l Albans, and now at Saint James's, (the best and fairest I ever saw) and which I conceive ^m Mat. Paris himself used) *solius Papæ est concilium generale, Romanæ ecclæsæ & Constantinopolitanæ est concilium universale*: which I know not how he will make good, having ⁿ the 3^d and 4th Councell of *Carthage*, ^o and one held there 403. the Councell ^p of *Matiscon* and others to contest with, which being no other then particular, as we now esteem them, have in their acts the titles of being universal Councells. So the 4th Councell ^q of *Toledo* is said to have been general; as by *Eymericus* a ^r Councell in *Tarragona*.

33. Now of such as have been so called, it is manifest the value set on them is altogether vanish't, and was so long since. ^s Malmesbury records, the Councells held by *Anselm* were in his time become *obsoleta*, their credit lost: and so we may say of the rest, for ^t Lyndwood is very clear no English Councells oblige this Church, before 1222. Stephen Langton held one at *Oxford*. As for those which the Popes called as *Patriarchs* of the West, which Diceto conceives were properly general, the rite of

of former times was, never to send hence more then four Bishops unto them; which when it came in question 1179. *Episcopi Angliæ constanter afferuerunt, quod ad generale concilium Dom. Papæ quatuor Episcopi de Anglia tantum Romam mittendi sumi:* which is so full a testimony of his having no absolute power over our Bishops, not so much as to cause them meet in councell, as there cannot well be a greater; and therefore when he imposed the oath (of which before) on them, one clause was, *Vocatus ad Synodum veniam, nisi præpeditus fuero canonica præpeditione.* Yet in after Ages the going thither did onely remain at the Princes pleasure, " who gave them auctority consentiendi, &c, si opus fuerit, dissentendi his quæ juxta deliberationem dicti concilii imbi statui & ordinari contigerit. All which I have spoke of generall Councells, that the Reader may know, when he meets that phrase in any author, he is not necessarily to conclude him to have conceived an obligation of following whatever they said, nor that he held it to have been void of Errour; for it is unquestionable, they and we give the name to such Synods as were esteemed full of imperfections, far from that freedome ought to be in *Generall Councells*, to whose Canons they did not hold themselves tyed.

34. But because in these cases examples of former times do more convince mens judgements, then present affirmations, to give some instances, not of other then of such as have been lately printed, and with that title, at *Rome*; as the Councell of *Vienna* 1311. which by: *Gisburnensis*, who lived about that time, is noted to have been nothing lesse then a free Councell: the book is not printed, I will give you the whole therefore as I find it in him.

Dominus Papa Clemens tenuit concilium suum Vienæ Anno Dom. Mcccxi. primo die mensis Octobris: in quo quidem concilio tres fecit sessiones.

^f Hoveden
fol. 332. a.
55.

^t Cap. 3. n.
50. 51.

^u Vide Seld
ad Eadmer.
p. 214. ex
Archivis po-
testatem com-
missam Am-
bassiatoribus
ad interfend.
concilio Bas-
iliensi.

^x 1608 &
1612. Rom.
.. Gualterus
Hemingsford
Gisburnensis.

I. In prima sessione facta sermone, exposuit Clero tres articulos super quibus erat principaliter tractandum, & consuendum; super negotio terræ sanctæ, quomodo posset recuperari & tueri, & super ordine Templariorum, qui pro nullo habebatur; præcepitque omnibus Prælatis, & singulis qui convenerant, quod super præmissis articulis usque ad secundam sessionem deliberarent.

II. In secunda sessione facta est longa disputatio de ordine Templariorum, utrum stare posset, vel deleri de jure deberet. Et erant pro ordine Templariorum prælati quasi omnes, præter prælatos Franciæ, qui propter timorem Regis Franciæ (per quem, ut dicebatur, totum illud scandalum fuerat) aliud facere non audebant. Erant in toto Concilio (quod Concilium dici non merebatur, quia ex capite proprio omnia fecit Dominus Papa, non respondentie neque consentiente sacro Concilio) baculi pastorales circa cxxx.

III. In tertia sessione Dominus Papa [sed] pro tribunali, & ab uno latere Rex Franciæ, ab altero Rex Naverniæ filius ejus: surrexit que quidem Clericus, & inhibuit sub pena excommunicationis majoris, ne aliquis loqueretur verbum in concilio, nisi licentiatus vel requisitus à Papa. Recitatoque processu Templariorum, adjecit Papa, Quod licet ex processu præhabito ipsum Ordinem de jure delere non posset, tamen ex plenitudine potestatis Ordinem devavit, nomen & habitum, terras eorum & possessiones Hospitalariis conferendo, aggregando, & uniendo.

35. The like may be said of the Council of Lateran under Innocentius 3. in which there was onely recitata (as what the Pope had before concluded on) capitula y lx, quæ alii placabilia, aliis videbantur onerosa, &c. Which with the great extortion then exercised on the prelats appeared in it, the little credit it gained in England, might justly cause y th' Antiquitates Britannicae Ecclesiæ write it to end in risum & scisma: which words are none of Mat. Paris, but of the auctors; though the marginall.

y Sic Mat.
Paris Anno
1215. p. 272,
26. lege tamen
capitula lxx.
z p. 251, 19.
edit. Lond:

ginall note against them in^a the edition of *Hanaw* 1605. ap. 158, 47.
 hath given an occasion of mistake, which should have
 been placed five lines lower, as it is in that * of *London* p. 151, 23.
 1572. for that he there speaks of the prelats borrowing
 to satisfy the papall avarice, is as *Archbishop Parker*, or
 whosoever else composed those lives, thus delivered
 in ^b *Historia minori*; *Tunc autem temporis solutum est*
concilium generale: Papa vero prælatis petentibus licen-
tiam repatriandi minime concessit, immo à singulis auxi-
lium in pecunia postulavit, quam recessuri cum viaticis
cogebantur à Mercatoribus curia Romanae duris conditio-
nibus mutuare, & sic cum benedictione papali ad propria
remearunt --- per idem tempus instanti festo Paschali, &c.

^b Mat. Paris.
hist. minor.
Mf. p. 172.
& fol. 86 five
89. col. 2. An-
no 1216. Vide
Abbatum ri-
tas pag. 117,
39, 43.

36. This I have rather transcribed, because some
 are of opinion that Councell ended 1215; which cer-
 tainly it did not till towards Easter the year following;
 and then too abruptly, the Pope called away on a sud-
 dain for appeasing the wars growing in *Italy*, the 16 July
 1216. dyed: which makes it without either time when
 it began or ended, nothing being fully concluded but
 th' expedition against the Sarazins, for the recovery of
 the Holy land. Of this I have made the more particular
 mention, for that having given advertisement of it to
 Doctor *Wats* (who hath with great sincerity and judg-
 ment put out *Mat. Paris.*) that he might clear the Arch-
 bishop in his *Adversariis*, I know not by what fate he
 applies his note to pag. 138, 5. which refers to the
 Councell held there by *Alexander* the 3. 1179. when
 it should have been to pag. 272. or pag. 274. 6. and thinks
 he called the lives of the Abbots the *Historia minori*; who
 I am perswaded * never saw that book, but did write
 candidly what he found in *Historia minori*.

37. But that this Councell was never received gene-
 rally here is manifest, in that divers Canons in it were
 not of force in *England*, as the 3, the 41, the 46, to which
 I may add the very first; for though ^c *Peckham* 66 years

* See the pre-
 face to *Mat.*
West. pag. 5.
^c Lyndwood,
de summa
Trinitate &
fide Catho-
licâ, cap. Al-
ijssimus.

d *ibid. de pe-*
nitiis &
remissionibus.

e *De custodia*
Eucharist.
cap. 2.

f *Mat. Paris*
Hist. minor.
Anno 1216.
 § *Barones,*
p. 172. col. 2.

aster did make a constitution in that point; yet he did, to my understanding, not speak of Christ's presence in the Eucharist so grossly, nor determine it to be by Transubstantiation, as the first chapter of the other doth: but of that hereafter. And whosoever shall peruse ^d *Simon Sudburies constitutions 1378* touching confession, will find so much variation from the 21 chapter of that Synod, as he cannot think he took that for a rule not to be varied from. To which I may adde, that ^e *Peckham* provides the punishment of the negligent conserver of the holy Sacrament to be *secundum regulam concilii generalis*, meaning the 20th chapter of this I speak of; which had it been of force otherwise, he had no doubt commanded the due observance of it, not by his command added strength to the rule there given. It is true, *Stephen Langton*, to ingratiate himself with *Rome* (whom he had so much displeased, as ^f the Pope intended to remove him from his Archbishoprick on the Kings desire, but stopt on the intercession of the Court, and his being a Cardinall) did at the end of his Synod at *Oxford* 1222 enjoyn the Councell ^g of *Lateran* held under Pope *Innocent*, in the paying of Tythes and other litigious * causes, to be observed, & in *Synodis episcopalibus constitutiones illius concilii, una cum istis, prout videbitur expedire, [exponi volumus & recitari:]* which last words *Binius* hath changed, I know not on what authority, to *volumus observari*, when questionlesse th' English took them for advise, not a precept: and their little regard of them appears by the particulars mentioned. Neither doth *Lyndwood* make any mention of this part, though he have, I think, all therest were agreed there: & is it self altogether omitted in some old copies of that Councel I have seen; one

* *Binius* reads,
 & aliis capi-
 tulis, thereby
 adding
 strength to
 every chapter

of that Councell: when certain the reading shold be, according to ancient copies, in *præstatione Decinamarum & aliis causis*, referring only to what past there touching Tythes, and the payment of them by the *Cistercian* order, for land acquired after that time, which severall *Acts of Parl.* confirmed afterwards. As for the other constitutions there propounded, he after gives the rule with what cau-
 tion they were to be expounded and recited, as they shold be held expedient, and not otherwise.

one of which is joyned with the Ms. Annals of Burton Abby in St Thomas Cottons Library. But the Acts of this Councell being , with divers others , printed at the end of the constitutions of Otho and Othobon at Paris 1504, and since by Binius transferred into his third tome the second part , this is alledged by some men , as if what past at Lateran had been of undoubted validity with us ; when no question, what was done there hath never been taken here as the decrees of a generall Councell , like that of Nice or &c. but of Innocentius 3^{us} , as they stand in the Decretalls (compiled by Gregory the 9th his Nephew) with this title , *Innocentius 3. in Concilio Lateranensi* , as those by him propounded, but not fully concluded in councell , according to *Platina* , and from which this Church varied as occasion served. Yet if any shall insist this conclusion of 1222. to have been of greater validity then I speak, I must adde , that if it really were made with such an intent by the Ecclesiasticks , it cannot be thought to have obliged us more then that declaration of the Bishops 1615 did the French ; who having meurement delibere sur la publication du concile de Trente , ont unanimet recognu & declare , & reconnoissent & declarent , estre obligez par leur devoir , & conscience , a recevoir , come de fait ils ont receu & recoivent , le dit concile , & promettent l'observer entant qu'ils peuvent par leurs fonctions , & autorite spirituelle , & pastorele , and caused the same to be printed. Yet that of Trent had never validity in France , nor the other in England , notwithstanding what thus past the Clergy .

38. Neither was that other Councell of Lateran under Innocentius 2. ever received here : though the Pope there ^h *insignem sacerorum Decretorum textum congesit* , yet nimis abundans per universum orbem nequitia terrigenarum corda contra ecclesiastica scita obduravit ; from whence it proceeded , that when they were divulged they did no good , quoniam à principibus & optimatibus regnor

*g Preuves des
libertes de
l'Eglise de
France p. 325.*

*b Ordericus.
Vitalis lib:
13. p. 919. B.*

regnorum cum subjectis plebibus, parvi pensa sunt. Now that it was never received here appears, (besides this testimony) in that the marriage of a professed Nun was

i Regist. Istepl.
fol. 166. b.

k Apud Gra-
tian. caus. 27.
q. 1. cap. 40.

i adjudged valid, contrary to the 7. Canon of it, and that too after it was registered in the ^k Canon Law: which shews, this Church did neither admit the Canons of forreign Councells, nor the Canon Law it self to alter their ancient customes; as is farther manifest by the statute of *Merton* cap. 9. Neither was the Councell of

1 Carol. &
Lud. Capit.
lib. 7. cap.

323.

2 Bern. de
consideratione
ad Eugenium,
lib. 3. cap. 2.

Sardis ever allowed in *England*, as is manifest by what before of Appeals, which yet by the Capitulars of *Charls* the great and *Ludovicus Pius* was even in that particular in *France*; which made ² St. Bernard write of them, *in multis posse eas devenire perniciem, si non summo [modera]ramine actitentur: Appellatur de toto mundo ad te] id quidem &c.* for so the place is to be read, as I have seen in two very good Ms, and one late printed, not as in the former editions of him, as at *Paris* 1586. By these precedents the Reader may judge how necessary it was for the Parliament to make a distinction of Councells. Now in these, with sundry of as doubtfull credit, being of late ¹ printed at *Rome*, as if they were of equall value with the first, I have thought fit to instance. And here having made mention of receiving Councells, as if that added strength unto them, it will be necessary to say something of that too, for the fuller clearing of this Church.

1 Concil. gen.
Rome, 1608,
1612.

m Acts the
xv.

n Acts xvi, 4.

39. The Apostles as they shewed a pattern for ^m holding Councells to settle disputes amongst Christians; so *Paul* and *Silas* in their travells delivering the ⁿ Decrees by them ordained to be kept by severall Churches, shew'd it to be reasonable, such as were absent should receive what was done in any Synod, before they were obliged by it; and accordingly, in the primitive times, those were not present at the holding a synod, had the results sent or brought unto them after the conclusion taken, who did in their own Churches subscribe (finding

ing them just and pious) what the others had in
Councell agreed upon, and then repos'd them amongst
their Records, called by S^t Hierom ^o Scrinua publica, Eccl^e
clesiarum arcæ &c. So P^r Cecilian, being present at Nicæa,
brought to Carthage the Decrees there concluded, who
submitted unto them; and q^s S. Athanajius of that
Councell sayes, *Huic Concilio universus orbis assensum*
præbuit; & quanquam multæ habite sunt Synodi, hujus tam
*men omnes sunt memores, tum per Dalmatiam, Dardani-
am, alijsq; insulas, Siciliam, &c. & pleriq; in Arabia hanc*
agnoverunt, & subscriptione approbarunt, &c. And of the
Councell at Sardis it is recorded, *οντος ἐποιησεν οὐρανού*
τοῦ πατρὸς τοῦ Σαρδικῆς σύνδεσμον αὐτοῖς τοῖς μὲν διαν-
βίταις αὐτοῖς τοῖς διανταξαῖς τοῖς μέμφεσι τοῖς επιθετικοῖς εἰς τὴν συνίστημαν
τοῦ πατρὸς οὐρανού τὰ οὐρανά εἰναι ταῦτα. which I English thus; Osius
the Bishop subscribed, and so did the rest. These things be-
ing copied out, the Synod in Sardis sent to those could not be
present, who were of the same mind w^tth what had been
determined of those sub.scribd in the Synod; and of the o-
ther Bishops these are the names.

40. After which ^c Athanasius (from whom this epistle is taken) adds, *qui igitur decretis subscriptis sunt isti — in universum 344.* Hence it grew, that though some Councells had but few at the holding of them, yet the subscriptions were numerous. ^c Baronius observes the ^t Tom. 5. anno 5th Councell of Carthage to have been held by 22 Only, 419. n. 59. (I conceive it should be 72.) yet had 217. subscribers, which was after the ending of it, by Bishops in their own Churches, when they admitted of it. So the "Synod of Antioch about 341. sending their conclusions to absent Churches, writ unto them, they did believe they would assent to what they had done, *et ea que visa sunt recti roborantes cum consensu sancti Spiritus consignabitis.* It is of no use to dispute here, whether this were an Arrian or a Catholick Councell: be it either, it still denotes the manner then used; as doth the ^x third Coun- ^u Concil. Antioch. to. 1. concil. in process.

cell of Toledo held Anno 589. which speaks thus, *Constitutiones sanctorum conciliorum*, Niceni, Ephesini, Constantinopolitani vel Chalcedonensis, quas gratiss. ma aure audivimus, & confessione nostra veras esse probavimus, de toto corde & de tota anima & de tota mente nostra subscripsimus: and another held there, having received with the letters of Pope Leo the 2. the sixth generall Council, invited all the Prelats* of Spain, ut praedicta synodia instituta que miserat, nostrae etiam vigoris manerent autoritate suffulta, omnibusque per nos sub regno Hispaniae consistentibus patescissent divulgandi.

* BARON 10.8.
ANNO 685. n.
25.

41. By all this it is plain, the manner of former times was to disperse the Decrees of Councells to absent Churches, who by subscriptions were said to have confirmed, and, so far as lay in them, by suffrage, to have given strength to that such meetings had agreed unto. And as Popes did thus confirme what other Bishops had concluded in their Synods, so did they in like manner his. In the year 1095. *Vrban* the 2. held a Councell at *Clermont* in *Auvergne*, at which were present severall Prelats of *Normandy*, who at their return brought letters from the Synod, upon which *William* Archbishop of *Roan* caused the *Norman* Bishops to meet there, ^y who capitula Synodi que apud Clarum montem facta est unanimiter contemplati sunt, scita quoque Apostolica confirmaverunt. It is true, the Pope being the Patriarch of most note in the world, and of greatest dignity in the West, usually the Acts of forraign Councells were directed unto him, ^x which he dispersed through *Italy* and other parts of *Europe*; but his approbation was not enough to oblige other Churches, till what came from him was by themselves allowed: neither was this dispersing so appropriated to his Papacy, as if there were never any other divulging of them; the second Councell of *Nice* held 787, or 788 as *Diceto* accounts, was sent from *Constantinople* to *Charls* the great,

^y Ord. ricus
Vitalis lib. 9.
p. 721. B.

^x Vide Euseb.
Mediolanens.
post epist.
52. Leonis.

then

then onely *Rex Francorum*, and by him 792. hither, where it was rejected.

42. From hence it proceeded, that part of the Acts of one Councell did not bind some Churches, which did others; as some parts of the Councell of *Chalcedon* and *Ephesus* seem not to have been received in *Rome* in ^a S. *Gregories* time, to which may be added some ^b Canons of the 7th Councell. But I believe it will be hardly shewed from the ancients, that any Church, neither intervening in Councell by proxy, nor that did after admit of it, were ever held concluded by any, though never so numerous. Certainly none was ever held of greater esteem amongst Catholicks than the Council of *Nice*; yet ^c S. *Augustine*, in his dispute with an *Arrian*, confesses neither the Council of *Nice* ought to prejudice the *Arrian*, nor that held at *Ariminum* him, *sed utrisque communibus testibus, res cum re, causa cum causa, ratio cum ratione concertet*. And ^c St. *Hilary*, comparing two Councells, one of 80. Bishops which refused the word *homo*, with that of *Nice* which received it, says, *si contraria invicem senserunt, debemus quasi judices probare meliora*: so not onely taking from them all infallibility, but allowing others to judge of their doings, before they submitted unto their determinations.

And this hath been the so constant observance in all times, as no age ever held the *Liturgy* obliged by the *Grecian Synods* which they have not received; neither doth the *Greek Church* to this day hold themselves tyed by the determinations of *Florence*, or to the many other of the *Latin* touching the procession of the holy Ghost, and other points in difference, to which they have not submitted.

43. But for that the Acts of Councells, without temporall antiquity to inforce the observance of them, were no other then persuasive, Princes (either on the incitation of their Bishops, or convinced of the justnesse and piety of what had past in those Ecclesiastick Assemblies)

^a Gregor.
lib 6. epist. 31.
& lib. 7. epist.
47. Indict. 2.
^b General.
council Rome,
tom. 1. p.
684, 685. in
margine.

^c contra Maximinum Arrianorum epist.
lib. 3. cap. 14.
to 6. vide etiam de unitate Eccl. cap. 16.
to. 7.
^c De Synodis adversi Arrianos prope finem p. 243.

did often by their letters exhort , or by their laws command the observance of what resulted from them. So *Constantine*, after the Councell of *Nice* , wrote that letter re-

^d Socrat. lib.

1. cap. 6.

Theodor. lib.

1. cap. 10.

maines recorded in ^d *Socrates* and *Theodoret* to some absent Churches , for their admitting the resolutions of it : in which he tells them he had undertook that what the Romans had already , *ανθρωποι τετρακοσιοι ειναι πιστεις περιτελης αποδειγματων* , that their judgment would willingly receive. ^e And *Gratian* , *Valentinian* , *Theodosius* did in the year 381. by their rescripts establish the same Councell, as ^f *Justinian* by the law before mentioned did all the four first ; which I take to be the same ^{*} *St Augustin* calls inserting them *actis proconsularibus* .

44. Of later times Popes , having by severall arts acquired the greatest part of Episcopall power to be devolved to them , have likewise claimed it as a right belonging to the Papacy , not onely to call Councells , but to determine which are generall , who are to vote in them ; and therefore ^g though properly , *ordinarie* , none but Bishops have there (say they) *jus suffragii* , yet ex *pri-
vilegio & consuetudine* Cardinalls , Abbats , and Generalls of Orders are to be allowed voice ; and that there needs no other then the Popes confirmation in *Rome* , to oblige all Christians to the observance of any he shall hold out for such , as *Pius 4^{tas}* by his bull of the 18 July 1564. declared , all in the Councell of *Trent* *juris positivi* did the world from the first of *May* before , &c. And though all History agree , and the very Councells themselves assure us , the causing the *East* and *West* to meet in those assemblies , to have been ever done by Emperours , and that Princes on occasions have called the Clergy within their estates together for composing disputes in religion ; yet the bare affirmation , without any real proof , hath so far prevailed with some men , as to esteem him little other then an heretick shall maintain the contrary.

^g Bellarm. de
concil. lib. 1.

cap. 15. §. At
Catholicorum.

45. But Kings have not so easily parted with these rights: for the State of France, notwithstanding the many sollicitations of Popes from abroad, and their Clergy at home, hath not hitherto been induced to approve what was determined at Trent; however you shall hardly meet with any of the Roman party, but he will tell you that the points of faith there agreed upon, are received in France, but not of manners, and government: which is in a kind true, yet contains a notable fallacy; for the Ecclesiasticks of that kingdom finding the difficulty of procuring that Councell to passe, have in their provincial Synods, ^h *conspiratione quadam, venia in quique Diocesi cogendi* *Synodos impetrata*, inserted the greatest part of the doctrinal points of it into those Councells; so that it is truth, they are indeed there received, yet not for that they were concluded upon in Trent, but because Episcopall Councells have each in their Dioceses establisht what they could perswade *nec regibus, nec supremis Parlamentorum curiis, ut Synodi istius Canones in acta sua referrent, & observandos publicarent.* Neither hath the Councell of Florence under Eugenius ^{4thus}, or of Lateran held by Iulius the 2. and Leo the 10, been hitherto allowed by France, or England, where the most zealously affected to Rome, as S^r Thomas Moore, have ⁱ maintained the superiority of a generall Councell above the Pope ^k in opposition to either of them; though ^l that be a point rather offaith then manners. Upon which grounds, those Councells before spoken of did not bind here, farther then what was in them hath been made good by provinciall Synods within the Nation.

^h Bochellius
instituti ope-
ris ratio.

ⁱ See his letter
to Cromwell
at the end of
his works, and
the originall in
S^r Thom.
Cottons
Library.
^k concil. Flo-
rent. Sess. 25.
Concil. gen.
Rome tom. 4.
p. 584. ibid.

Concil. Later.
sub Iulio 2.

& Leone 10.

Sess. 11. p. 175.
col. 2.

I Bellat.de
concil. lib. 2.

cap. 17. §. Ad
hunc locum.

By all which it being certain, neither this Church nor Kingdom hath ever been tyed by the Acts of any forraign councell not admitted here, and being perhaps a thing of some intricacy, what determinations the Realm had received after the four first generall Councells, her Majesty took the way of receiving them as absolutely necess-

^{in 1 Eliz. cap. 1.} sary, but others with such limitations as are in ["] the statute, and for the future, nothing to be heresy, but what should be determined to be such by the Parliament, with th' assent of the Convocation.

C H A P. I X.

Of the farther proceeding of Queen Elizabeth in the Reformation.

Hings thus settled in 1^o Eliz. the Parliament ended, the Liturgy of the Church, commonly called the book of Common prayer, reformed, and published, the Queen, ^a following the examples of her predecessors, and relying on the ancient Symbols as the doctrine of the Catholick Church, gave command the *Creed*, the *Pater-noster* and *ten Commandements* (as the grounds for a Christian to believe, and frame his life after) should be taught her subjects, and none to presume to come to the Lords table before they could perfectly say them in *English*.

2. Hitherto to my understanding her Majesty had not done any thing not warranted by the practise of her predecessors, nor that could be justly interpreted a departing from the Apostolick faith, or indeed from *Rome* it self; where she kept an Agent, ^b till *Paulus 4^t.s* during the Parliament commanded him to relinquish the title of Ambassador, and not to stir out of *Rome*. So that if there were any departure, it must needs be the Pope made it, not the *English*; (who was so incensed, he would not at first acknowledge her Queen, nor after permit any from her in the quality of Ambassador to reside with him, though she had not done any thing but according to the

^a Canones dati
sub Eadgare
or legibus
ejus annexi.
p. 67. Leg. Ca-
nute. cap. 22.
p. 105. See be-
fore cap. 4.
n. 6. §. iii.

^b Camden.
Annal. Anno
1559.

the ancient rights of the Kingdom, and the usages of former Princes.) But suppose (which will never be proved) her Matie to have gone farther then was fit for a Christian Prince in settling Religion, certainly she had just cause to conceive she might do it, having so many precedents of her ancestors in the case. Yet *Paulus 4th* breaks off all entercourse : some of his party first would not Crown her, then spake of excommunicating of her; indignities no Prince but must be sensible of.

3. Yet it seems, the first heat past, the Queens moderation was better received at *Rome* then at home : where the Pope, however a violent heady man, considering no doubt his own loss in breaking off all commerce with so potent a Kingdom, & began to hearken to terms of accommodation, and was content things should stand as they are, the Queen acknowledging his primacy, and the reformation from him. But his death ensuing the 18 *August* 1559. left the designe to be prosecuted by his successor *Pius 4th*, who by letters (sent by *Vincentius Parpalia*, a person of great experience, employed by Cardinall *Poole* in his former negotiations, and of late in that hither,) of the 5th of *May* 1560. directed *charissima in Christo filie Elizabethæ Reginae Angliae*, did assuie her, *d^{omi}nia de nobis tibi pollicare, quæ non modo ad animæ tuae salutem conservindam, sed etiam ad dignitatem regiam stabiliendam & confirmandam, pro autoritate, pro loco ac munere quod nobis a Deo commissum fuit, a nobis desiderares, &c.* Upon this, and their relations who then lived, and had part in the action, the *English* affirm *Pius 4th* would have confirmed the liturgy of the Church of *England*: and indeed how can any imagine other? for doubtlesse nothing could have been more to her dishonour, then so suddainly to have changed what she had with so great consideration establisht; and the Pope assuring her, she might promise her self from him all he could do, I know not what lesse or other he could expect

*c Tortura
Torti, p. 142.*

*d In Camde-
ni Annal.
Anno 1560.*

*e Prefat.lib.7.
relat.*

pect she would ask. But where S^r Edward Cook, in his charge at *Norwich*, as it is now printed, sayes this offer came from *Pius 5th*, I conceive it a mistake, and should have been *Pius 4th* (as in another place he names *Clement* the 9. who yet never was, for *Clement* the 8.) and the rest of the narration there not to be without absurdities, and to be one of those deserves the authors censure, when he says, *c there is no one period in the whole expressed in the sort and sense that he delivered it*; for certainly *Pius 5th* from his coming to the Popedom 1566, rather sought by raising against her forraign power abroad, and domestick commotions at home, to force her to his obedience, then by such civil ways as we now speak of to allure her; though the thing it self is no question true, how ever the person that offer'd it be mistaken in some circumstances.

*f Parallel.
Torti & Tortoris, p. 241.*

4. They *f* that make a difficulty in believing this, object it to have been first divulged 1606. 46 years after the profer of it. That S^r Edward Cook averr'd to have received it from the Queen her self, not then alive to contradict him. But for my part I confess I find no scruple in it, for I have ever observed the wisdome of that Court, to give what it could neither sell nor keep; as *Paulus 4th* did the Kingdom of *Ireland* to *Queen Mary*, admitted the five Bishopricks erected by her father, approved the dissolution of the Monasteries made by him, &c. of which nature no question this was. For the being first mentioned 46 years after, that is not so long a time but many might remember; and I my self have received it from such as I cannot doubt of it, they having had it from persons of nigh relation unto them who were

*g Servi fide-
lis subditio
infideli re-
sponsio, apud
Johannem
Dayum 1573.
h p. 121.*

actors in the managing of the businesse. Besides, the thing it self was in effect printed many years before; for he *g* that made the answer to *Saunders* his seventh book *de visibili monarchia*, *h* who it seems had been very careful to gather the beginnings of *Queen Elizabeth*, that there

there might be an exact history of her, *tandem aliquando, qui omnia acta diligenter observavit, qui summis Re:publica negotiis consulto interfuit,*¹ relates it thus.

5. That a noble-man of this Country being about the beginning of the Queens reigne at *Rome*, *Pius 4^{us}* asked him of her Maties casting his authority out of *England*, who made answer that she did it being perswaded by testimonies of Scripture, and the laws of the realm, *nullam illius esse in terra aliena jurisdictionem*. Which the Pope seemed not to believe, her Majesty being wise and learned, but did rather think the sentence of that Court against her mothers marriage to be the true cause; which he did promise not onely to retract, *sed in eus gratiam quaecunque possum præterea facturum, dum illa ad nostram Ecclesiam se recipiat, & debitum mihi primatus titulum reddat.* and then adds, *extant apud nos articuli Abbatis*

* *Sanctæ salutis manu conscripti, extant Cardinalis Moronæ literæ, quibus nobilem illum vehementer hortabatur, ut eam rem nervis omnibus apud reginam nostram sollicitaret.*

Extant hodie nobilium nostrorum aliquot, quibus Papam multa aureorum millia pollicitus est, ut istius amicitiae atque fœderis inter Romanam cathedralm & Elizabetham sere-nissimam authores essent. This I have cited the more at large, for that *Camden* seems to think, what the Abbot of *St Saviour* propounded was not in writing, and because it being printed seven years before the Cardinal *Moronas* death, by whose privity (as Protector of the *English*) this negotiation past, without any contradiction from *Rome*, there can no doubt be made of the truth of it. And assuredly, some who have conveniency and leisure may find more of it then hath been yet divulged: for I no way believe the Bishop of *Winchester* would have been induced to write, it did *constare* of *Paulus 4^{us}*; nor the Queen her self, and divers others of those times, persons of honour and worth, (with some of which I myself have spoken) have affirmed it for an undoubted

¹ *Ibid. p. 70.*
71. the book is
not printed
with pages,
but they are
added with a
pen.

* *Sancti Sal-vatoriis Cam-den Anno 1560. calls him. who in the year 1562. seems to have been em-ployed by the said Pope into France. Hist. Concil. Trid. lib. 6. p. 501. and of whos mention is made in the life of Cardi-nall Poole.*

truth , did not somewhat more remain (or at least had formerly been) then a single letter of Pius 4th, which apparently had reference to matters then of greater privacy. And here I hold it not unworthy a place , that I my self talking sometime with an *Italian* gentleman (verst in publick affairs) of this offer from the Pope , he made much scruple of believing it; but it being in a place where books were at hand , I shew'd him on what ground I spake, and asked him if he thought men could be Devils, to write such an odious lie, had it not been so. Well (says he) if this were heard in Rome among^t religious men , it would never gain credit ; but with such as have in their hands the Maneggi della corte, (for that was his expression) it may be held true.

6. Indeed, the former author doth not expresse , (as perhaps then not so fit to be publisht) the particulars those articles did contain were writ with the Abbots own hand ; (which later pens have divulged) but that, in generall, it should be any thing lay in the Popes power, on her acknowledging his primacy : and certain no other could by him have been propounded to her , nor by her with honour accepted , then that of his allowing the *English* Liturgy : so that they who agree he did by his Agent (according to his letter) make propositions unto her , must instance in some particulars , not dishonorable to her self and Kingdom to accept , or allow what these writers affirm to have been them. And I have seen and heard weighty considerations , why her Majesty could not admit her own reformation from *Rome*; some with reference to this Church at home , as that it had been a tacite acknowledgment it could not have reformed it self, which had been contrary to all former precedents; others to the State of Christendom as it then stood in *Scotland*, *Germany*, and *France* : but with this I have not took upon me to meddle here.

7. Yet what the Queen did upon this message, seems to

to have given no very ill satisfaction; for ⁱ S^r Edw. Carne, then in *Rome*, advised the Pope the same year to invite her to the Councell of *Trent*, promising him half the Kingdom with her own liking would receive his messenger; which yet was found otherwise: the reasons why, are some toucht by Historians, and may more at large be seen in S^r Nicholas Throgmortons negotiations, then her Ambassador in *France*. Certainly ^k the French were not altogether out of an opinion (or at least would ^k Ib. p. 522. p. 523. have it thought so) of her sending to the Synod; which the Pope, however he invited her, was not a little troubled at. But the great combination of the Popish party, supported by *France* against *England*, made her see she could expect no good where they were predominant: upon which she caused the divines of her Kingdom in councell to consider of a just and lawfull reformation; who meeting 1562, reviving the A^cts of a Synod held at *London* ten years before under Ed. the 6th, and explaining some few expressions, and omitting some points rather of dispute then faith, did conclude on 39 articles so just, so moderate, so fully agreeing with the doctrine of the primitive fathers, and with the ancient tenets and practise of this very Church in the times of the *Britons* and *Saxons*, as if any shall say no Clergy in any age or place have held out a more exact rule, he may be easilier contradicted, then justly blamed, or confuted.

8. For having laid their ground, that ¹ holy Scripture ¹ Art. 6. containeth all things necessary to salvation, so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an article of Faith, &c. they do upon that Basis establish the doctrine of the three Creeds, the Nicen, Athanasian, and Apostles, heretofore ever held to contain Ecclesiarum omnium fidem, and that the ^m Romish doctrine of Purga-

^m Art. 12.
tory,

of Purgatory, Pardons, worshipping & adoration of Images, relicks, Invocation of Saints, &c. is not warranted by Scripture, that is, are no articles of faith: and then proceed to settle such other things as are juris positivi, with so just a moderation, as is hardly elsewhere to be found; changing nothing for the generall, but where the practice of their own ancestors did justify their doings, without at all extending themselves to any thing where they had not antiquity their warrant.

9. Following which, they restored the cup, having the Councell of Clermont under *Urban* the 2, that ^a *Corpus Dominicum & sanguis singulatim accipiantur*, the command of ^b *Paschalis* the 2. and the practice of the *English Church*, where sickly people, women as well as men, were to be provided of a pipe to receive it by; as was expressly enjoyned the order of the *Gilbertines* about 1200. The thing being already printed, I need here repeat no more, but onely add, that this permission of theirs was no other but a restoring to *minores ecclesias*, that is Parochial or Country Churches, that liberty *Peckham* had deprived them of not 300 yeares before. For I do not find any prohibition, but the Lay might ever have been partakers of it with us *in majoribus*, that is Cathedrall Churches; for ^c *Lyndwood* in his gloss upon the *English* constitutions about 1430, propounds this question, *Sed numquid in istis ecclesiis Cathedralibus, & aliis majoribus, liceat non celebrantibus dum communicant recipere sanguinem Christi in specie vini? videtur ex hac litera, quod sic argumento sumpto à contrario sensu, quod est in jure fortissimum, ut &c.— & hoc bene putarem verum; saltet quo ad ministrantes sacerdoti ministranti &c.*

^d *Antiquit.*
Britan. p. 98,
10. in *Lan-*
franci vita.
J Hunt. fol.
217, b. 26.
^e a. 10.

10. For the permitting of Matrimony to the Clergy, it is undoubted all here had the liberty of marrying, before ^f *Lanfrank* in a Councell at *Worcester* 1076. did rather advise then command the contrary; which *Hun-*
tington (who was himself the son of one in holy orders) sayes

says was first prohibited by *Anselm* 1102. But ^a multi presbyterorum statuta Concilii Londoniensis — postponentes, suas seminas retinebant, aut certe duxerant quas prius non habebant &c. so that his constitutions came quickly neglected, Priests both marrying , and retaining their wives. At which though the King were ^b somewhat displeased, yet soon after ^x he took a piece of money of them for it, and they kept them by his leave. Divers constitutions were after made by severall Archbishops and Legats in the point, as by *Steph. Langton* at Oxford 1222 , registered by *y Lyndwood*: ∵ yet it is manifest they did secretly contract marriage, which some are of opinion they continued till towards the end of *Edward* the 3^{ds} reign. This I am the rather induced to believe out of that in *z Knighton*, that ∵ *John de Althwerl* Clerk was slain by his wife and servant in his own house at *Leicester* 1344. for which fact she was burnt, and he hanged. Now I conceive, had she been onely his concubine , not his servant, she had not suffer'd by the judgement of burning for the murther, but hanging onely : neither can I interpret the word *Clericus* for other then one in holy Orders, prohibited marriage by the Canons of *Rome*; though I know, *large loquendo*, as our ^a *Lyndwood* hath it, omnes in Ecclesia ad divinum officium ordinati are sometimes so styled, ^b of which such as were *infra subdiaconatum* might retain their wives, but those were *in subdiaconatu* or above were to quit them. But the Canons yet remaining made at sundry times, from *Lanfrank* even to *Chichly*, by the space of more then 300 yeares, enough assure us this point of *Celibat* was not easily imposed on the *English* Clergy, and assures us such as laid it might take it off again.

I. For Images, if the *Saxons* had any use at all of them in their Churches (for ornament , for history, ^c to which end S. *Gregory* holds they might be permitted, for memorials of holy men departed, (as we have of late

^d Eadmer, p.
94, 48.

^e Eadmer, p.
105, 27.
^x Hunt, fol.
220, a. 26.
Saxon. Chron.
Petroburg. Ms.

^y De cohabitatione cleric. & mulierum, & de Clericis conjugatis.
∴ Confit.
Othonis cap.
Innotuit.
^z Col. 2584,
¹. Clericus apud Leicestriam.

∴ Quare whether this were not the Priest of the town that was thus inhabiting there.

^a De locato & conducto, cap. Vendentes, verbo Si quis Clericus.
^b Lynd. de clericis conjugatis, cap. 1.
Vide *Monastryum Anglicanum*, p. 899..
^c p. 900.

^d Reply to
Harding, Art.
14. in princi-
pia.

seen) & they being only thus applyed, I conceive, ^d with the Bishop of *Salisbury*, the weight of the question not so great,) yet it was a thing voluntary, no command of the Churches enjoyning it , till after the Conquest. And here the question is not, whether *Augustine* might or did bring the picture of our Saviours Crosse in his banner, as most Protestants yet retain it; but whether he placed them in the Church, with an intent to have worship of any kind attributed unto them: for which purpose, I confesse, I have not heard of them till many yeares after; for the vision of *Egwinus*, and the Councell of *London* setting up of Images being made good (so far as I know) by no author of any antiquity , I cannot but take it ^e with *Baronius* for a meer figment.

^c To. 8. anno
714. n. 2.

^f Simeon
Danelm. col.

111, 50.

Hoveden

fol. 232. b.3.

Mat. West.

Anno 793. p.

283.

^g Anno 788.

At Baron.

anno 787. tom.

9. n. 10. 38.

^h Concil. gen.

Rom. Synod.

7. p. 661, lin.

ult.

^m Ingulph.

fol. 514. a.

17.

ⁱ Lyndwood

de Haret. cap.

Nullus quo-

que.

n Seculo 8.

cap. 5. p. 126. 9.

^o In bibliothec-

Cotton.

12. It is certain, ^f 792 the Bishops of *England* declared their dissent from the second Councell of *Nice* in point of Images, held only 4 years before, according to ^g *Diceto*: and where some interpret that they did only condemn the worship the Greeks call *πατερία*, by using the Latin word *adorare*; it cannot be denied but they did reje&t that ^h *πατερίαν περινέμενον* the Oriental Bishops had established, in which sense they used the word *adorare*, which is often , as well in holy writ as by humane authors, taken for that reverence is given a creature , as for the religious duty we only owe to the Divine Majesty: see *Gen. xxiii. 7, 12. Ingulphus*, a writer not long after, ^m *Constantinopolim pervenimus, ubi Alexim imperato-rem adorantes &c.* So *Arundell* in his constitutions,* *ado-rationem crucis gloriose.*

13. To this narrative ⁿ *Harpsfield* gives the title of *com-
mentitia & insalsa fabula*, and thinks it not writ by *Sim.
Danelmensis* or *Mat. VVestminster*(he might have added *Hoveden*, the Ms. ^o history of *Rochester*,) but that it was anciently inserted into them. For answer to which , he would be desired to produce any one old copy without it, not mangled, so as it doth *prodere furtum* by wanting it:

it: I have seen divers of *Hoveden* Ms. some of *Mash. West.* but never did one wherein it was not found, not in the margin but in the text it self, and so it is in *Dunelmensis* his Ms. at *Bennet Colledge* in *Cambridge*. For my part, I do not know how any thing we mislike in History, may not after this manner be rejected, if a relation gathered from monuments of an elder date, which are perisht, yet cited by one who lived not so long after the time he speaks of, but they might well come to his hands, whom we find very sincere in such citations as yet remain out of more old authors then himself, ever esteemed of good credit in the Church of God, and in his narration followed *ad verbum* by those who writing of the same matter succeeded him, I confess, I say, if this may be cast away, as a lying & foolish fable, I know not what shall gain credit. But what will men not lay hold on in a desperat shipwrack? I remember p *Baronius* prest with the testimony of *Luitprandus* in the deposition of *John the 12.* by imperiall authority, makes no question of denying the five last chapters of his 6. book to have been written by him, though never doubted for more then 600 years since he lived.

p *To. 10. an.
no 963. 23.
Anno 968, 10.*

14. Another Doctor, I confess, seems to give a more difficult objection; that ^q *Alcuinus*, who is said to have writ against the second *Nicen Councell* in the point of Images, doth in his book *de divinis officiis* say, *prosternimus corpore ante crucem, mente ante Deum; veneramur crucem per quam redempti sumus &c.* and this from an author had written against Images, he would have imply a reverence of them (even in his time who opposed them) by the English Church. But what hath the reverence of the Crosse to do with the worship of Images? It is not to be denied but Christians, in their talk and writings, did extoll and magnifie the Crosse, forced thereunto by the Gentiles, who spake ignominiously of him that dyed upon it; yet I believe it will be difficult to shew any Law

^q *Richard Smith Archi-
episc. Chal-
cedon. Flores
hist. Anglic.
lib. 2. cap. 7.
p. 134.
^r *De Divinis
officiis, die Per-
fascere.**

or Canon before the Conquest, enjoyning the use, much lesse that attributed any religious worship unto Images.

^{s concil.}
^{Spelm. cap. 2.}
^{p 328.} 15. It is true, the ^s Councell of *Celicith* 816. did charge *unicuique Episcopo*, *ut habeat depictam in pariete oratori, aut in tabula, vel etiam in altariis, quibus sanctis sint utraque dedicata, &c.* which was clearly for memoriall and ornament; as it hath been very common, in some Churches, to have on the wall the Image of Queen Elizabeth, and such as have built an Isle or window, to have their statue or picture set up in it, which in some parts perhaps remain to this present; yet no man ever held any religious duty fit to be given them, nor any man compell'd to set them up. Now that there was no precept of the Church commanding their use, I speak ^t from the rules of *Sempringham* about 1148. that doubtlesse did not vary from the generall practise of Christians here, yet hath this expresse statute; *Sculpturae vel picturae superfluae in Ecclesiis nostris seu in officinis aliquibus Monasterii ne fiant interdicimus, quia dum talibus intenditur, utilitas bona meditationis vel disciplina religiosae & gravitatis saepe negligitur: cruces tamen pictas quae sunt lignea habemus.* So that it seems to me they did account all pictures so superfluous as not to have them, but onely painted crosses: & this was one of the first foundation. And in another ^u place, which I take to be somewhat after, the buying of them and silk, as things indifferent, are alike interdicted; yet a direction how to bestow any thing of that nature should be left them: but see the words; *Nihil de serico ematur a nostris vel de nostro ad nostrorum opus, vel ad aliquid religioni contrarium, & seculi vanitatibus amminiculum, nec etiam ad quodlibet sacerdotale indumentum, nisi constet esse necessarium: Si vero datur, secundum arbitrium Prioris omnium communi utilitati & usui mancipetur. hoc idem de Yconiis vel aliis sculptilibus dicimus, que ad beatam Mariæ Virginis vel aliorum sanctorum sunt fabricata memoriam;* ^v *que*

^t Institutio-
nes Mſ. bea-
ti Gilberti &
successorum
ejus per capi-
tula genera-
lia instituta;
de exordio,
ordinatio-
ne, institu-
tione ordinis
Canonicō-
rum, Sancti-
monialium,
fratrum &
sororum lai-
carum ordi-
nis de Sem-
pringham. de
canonicis cap.
15. § Scul-
pure.
^u De fratribus
cap. 13.

*que et amen gratis * grata, prout de serico prædiximus, ad sororum altare, vel hospitium, vel alio apto loco honeste ponenda decernimus.* So that it is apparent then their use was esteemed no other then that of silk; and these two articles seem to have been resolved on nigh the first foundation (being in an hand differing from some other I shall mention) by the Founder himself.

* Sic Ms.
Sed lege gratis
data, as it is
in other places
(as you will
see hereafter)
repeated.

16. In the year 1200 the house of *Sixle* or *Sixhill* in *Lincolnshire* was visited by the Abbat of * *Waredune*, as Commissioner of ^x *Otho* the Popes Legat; where about 20 articles were concluded for the government of the Order: the fifth of which, though it gave some more liberty then the former, yet was not without restraint: but take it from an hand of those times. *Anno gratiæ Mcc in visitatione facta de Sixl' per Abbatem de Wardun auctoritate Domini Otonis Legati, statuta sunt hæc firmiter observanda. In primis, &c. cap. 5. Item inhibetur ne picturarum varietas aut superfluitas sculpturarum de cætero fieri permittatur, nec liceat alicubi yconias haberi, nec imagines, præter ymaginem Salvatoris, & y. beata Mariæ, & Sancti Johannis Evangelistæ.* Hitherto questionlesse, the Church of *England* following the doctrine of *y St Gregory*, had been taught by testimonies of holy writ, that *omne manufactum adorare non liceat*; and though they might be lawfully made, yet by all means to avoid the worship of them: but see the progress.

<sup>y Lib. 9. Epist.
9. Indit. 4.</sup>

17. Sixty eight years after this, *Othobon*, being the Popes Legat in *England*, did in his own person visit the chiefhouse of this Order, and committed the others to *Rodulphus de Huntedune*, the said Cardinall's Chaplain, and penitentiary; who associating to himself one *Richard* * generall inquisitor of the Order of *Semplingham*, did in the year 1268. conclude upon 74 or 75. heads or chapters for the government of them; the 54 of which, under the title *de ymaginibus habendis*, is this:

Item, cum secundum Johannem Damascenum, ymaginis
B b nis

* Generali
ejusdem ordi-
nis de Sem-
plingham
scrutatore.

nis honor ad prototypum, id est, ad eum cuius est ymago pertinet, ad instantiam Monialium, & earum devotionem ferventius excitandam, conceduntur eis ymagine crucifixi & beatæ Mariae & sancti Johannis Evangelistæ, & quod possint habere in quolibet altari dedicato ymagine ipsius sancti in cuius honore altare dedicatum est. Sitamen gratis detur eisdem, sicut beatus * G. de serico & de ymaginibus duxit statuendum, & celebretur ipso die festivitatis illius sancti, & die dedicationis ejusdem altaris, missa ad dicta altaria, etiamsi sint infra clausuram monialium. Thus they.

* Gilbertus.

18. By which it is manifest, this Kingdom had not then received * the 7th Councell; for if they had, there can be no thought they would have built their Article upon Damascens opinion onely. But by all these we may see, Images were brought into this Church by degrees, by little and little: First they were to have none, onely wooden crosses were tolerated; then they might not buy any, but being given they might accept the image of our Lady and other Saints; then an inhibition of all Saints, except our Saviour, the Blessed Virgin, and St John the Evangelist, to which was added the image of that Saint their Altars were dedicated unto, and these onely by concession, not bought, but given. So that it is plain, they were then taken for things onely indifferent, as silk, which they might use or be without, no processions, bowings, kissing, &c. of them prescribed; but how the practise was afterward, that chapter of Arundell registred by Lyndwood may tell you, which because it is long, I shall not farther repeat, it being printed, then to adde that it is in him, lib. 5. de Magistris, cap. Nullus quoque: and in another place he propounds this question, ^z Numquid ymago Christi sit adoranda cultu latræ? and resolves, si consideretur ut ymago, tunc quia idem motus est in ymagine in quantum est ymago & ymaginatum, unus honor debetur ymagini & ymaginato; & ideo cum Christus latræ

^z Lyndwood de Ecclesiis edificandis cap. si consideretur ut ymago, tunc quia idem motus est in ymagine in quantum est ymago & ymaginatum, unus honor debetur ymagini & ymaginato; & ideo cum Christus latræ

tria adoretur, ejus imago debet similiter latria adorari. Nec obstat Exod. xxvi. ubi dicitur, non facies tibi ymaginem nec sculptam similitudinem; quia illud pro eo tempore erat prohibitum quo Deus humanam naturam non assumpserat, &c.

19. The Synod at *Westminster* finding things in this posture, and their retention in many parts to have been joyned with a great abuse, if not impiety, took a middle course; first to condemn all manner of adoration or worship of them, (and therefore every *Sculptile* had been removed out of Churches) but whereas some use might be made of them for remembrance of histories past, to retain in sundry parts such windows and pictures, as might without offence instruct the ignorant in severall passages not unworthily preserved: which if any man have since been offended at, it must be on other grounds then I understand.

20. As they proceeded with this circumspection, not to depart from the primitive Church in matters *juris positivi*, so did they take no less care in points of opinion; for having declared which were the books of holy Scripture, they did not absolutely reject the use of the other, though they had been ^a taught by the doctrine ^b of St *Hierom* and ^c St *Gregory*, not to repute them in *Canone*, but to admit them *quia fidem & religionem adificant*, or, as they ^d say, *for example of life, and instruction of manners*.

21. For praying to Saints, however the *Saxons* might honor holy men departed, *eo cultu dilectionis & societas quo & in hac vita voluntur homines*, as ^e S. *Augustine* speaks, (which what it is he explains elsewhere) yet I am hardly perswaded to think they did admit any publick praying to them in the Church; for I have seen and perused three ancient *Saxon Psalters* full of prayers, but no one petition to any Saint whatsoever. ^f *Eadmerus* sayes the report went of *VV^m* the second, that *crederet, & publica voce assereret, nullum sanctorum cuiquam apud De-*

^a *Iohan. Sa-
risb. Epist.*

^{172.} p. 281.

^{285.} *Walden-
sis tom. 1. lib.*

^{2.} *Art. 2. cap.*
^{21.} n. 2. fol.

^{203.} a. col. 2.
^{edit.} *Venet.*

^{1571.}

^b *Pr. sat. ix
proverb. Salo-
monis to. 3.*

^{fol. 9. c.}

^c *S. Gregor.*
Moral. lib.

^{19. cap. 17.}

^d *Art. 6.*

^e *Contra Fa-
stum Ma-
nicheum lib.*

^{20. cap. 21.}
^{to. 6.}

^f *Lib. 2. p. 48,*

^g In Canon.
Missle leet. 3.
D.

∴ August. de
vera religione
cap. 55. to. 1.

um posse prodesse; & ideo nec se velle, nec aliquem sapientem debere beatum Petrum interpellare: yet he doth not censure this as hereticall, but onely mentis elatio. & Gabriel Biel long after confesseth in his time, some Christians as well as Hereticks were deceived, in thinking Saints departed nobis auxiliari nec meritis possunt nec precibus. The Church of England therefore, following ∴ S. Augustine, condemns all religious invocation of them, as those were non adorandi propter religionem; yet in respect they were honorandi propter imitationem, to retain their commemoration, by appointing a set service for the dayes on which it celebrated their memorials; thereby to provoke us to imitation of their piety, and to thank God that left such lights, who by their doctrine instructed us, and whose lives were examples for us to follow: and in respect there are sundry Saints for whom there is no proper office, to retain one day to praise God for the generality of all, and beg of him that we may follow their pattern in all vertuous and godly living. This if any mislike, I intreat him to pardon me if I joyn not with him; and if he will add more, to give me leave to think he attributes to them (by what name so ever he style it) that is onely due to the Divine Majesty.

^h Erores
Graecorum
in fasciculo
Zizaniorum
Mss. per
Thomam Waldens. fol. 156.
b. col. 1. in
bibliotheca
Archiepisc.
Armach.
i Mat. Paris
hist. minor. Mf.
Ann. 1237.
& 1238.
Vide Hist. ma-
jor. Anno
1237, p. 457,
16. p. 465, 22.
k Mat. Paris.
Hist. major. p.
892, 28.
l Art. 22.

22. For Purgatory, however it might be held a private opinion, yet certainly as an Article of Faith it could not be; for the Greeks, who have ever^h constantly denied it, were in communion with the Church of Rome tillⁱ 1238. after which onely they began to be accounted schismaticks, not so much for their opinions, as denying subjection to the See of Rome; for some of them coming to Rome 1254^k de articulis fidei & sacramentis fidei satis tolerabiliter responderunt: so that questionlesse the Historian could not then hold Purgatory an Article of Faith, when those who did affirm *Nullum Purgatorium* c^l, did give a tolerable account of their Faith. Our Divines therefore charge these opinions^l onely as fond in-
ventions,

ventions, grounded on no warrant of Scripture, but rather repugnant to the word of God; that is, as I have said before, they deny them to be Articles of faith.

23. In like manner, having first ^m declared the bread we break in the holy Communion to be a partaking of the body of Christ, and the cup of blessing of his bloud, they censure Transubstantiation, or the change of the substance of bread and wine, asⁿ what is not proved by holy writ, and therefore no Article of faith &c. And indeed how could they say lesse of so doubtfull a tenet, so newly crept in, that had burnt so many, was so contrary to the ancient doctrine even of the *English* Church, as the *Saxon* Homily yet remaining in an old Ms., with this title, ^o *A book of Catholick sermons to be repeated each year*, doth undoubtedly assure us? It is true, some of late have strove to give an answer to it; as he that styled himself ^p Bish. of Chalcedon will have the author perhaps to have been an heretick; but that the time and title confutes, all ^q writers agreeing *England* to have been free from any heresy after S. Gregory, till about the year 1166. If that therefore will not do, he hath another, *viz.* the Sermon to make more for Transubstantiation then what the Protestants cite doth against it; yet is silent both where the words are in it, and who are the citers of them. For my part, to speak once for all, take the whole Homily as it lies, not one piece torn from the other, and if the doctrine of it be such as he can digest, I know not why we differ. As for those two miracles, which some dislike so far as to think them infarced into the work, I confess them not to displease me at all; for if they were inserted to prove the verity of Christ's body in the Sacrament, against those who held it bare bread, yet it must be after such a ghostly and spirituall manner as is there represented, without any other change in the substance of the bread and wine then is in the water of Baptism, ^r p. 33. not bodily but ghostly pag. 38. 36. a remembrance

^m Art. 28.

ⁿ Vide Bellarum de Euchar. lib. 3 cap. 23. §. Secundo dicit.

^o Liber Catholicon sermonum per annum recitandus. p. 355.

^p Flor. Hist. Eccles. &c. lib. 1. cap. 24. p. 91.

^q Ab hac & aliis pestibus Hæreticis immunis semper extitit Anglia,--- ubi hanc insulam expulsi Britonibus natio possedit Anglorum,

ut non jam Britannia sed Anglia dicatur, nullius unquam ex ea pestis hæreticæ virus ebullivit: sed nec in eum aliunde usq; ad tempora Regis Henrici secundi----

introivit. Newbrigen sis lib. 2. cap. 13. Vide Museum de script. Anno 1159.

^r Editionis Iohannis Dijii in oitavo,

of Christ's body offered for us on the Cross. p. 46.

^{§ p. 90. vide}
Malins. de
poni. lib. I. in
vita Odonis fol.
114; b. 36.

^{t De unitate}
Eccles. cap. 16.
tom. 7.

24. And this may serve for answer to that his Achilles, by which his doctrine of Transubstantiation manifestius patebit, of Odo Archbishop of Canterbury about 940. converting miraculously the Eucharist *in formam carnis, ad convincendum quosdam, qui suo tempore cæperunt de ea dubitare*: to which I shall first remember, that when St Augustine was prest with certain miracles of Donatus and Pontius, which the Donatists urged to prove the truth of their doctrine, he gives this answer, *Removeantur ista vel figmenta mendacium hominum, vel portenta fallacium spirituum; aut enim non sunt vera quæ dicuntur, aut si hæreticorum aliqua mira facta sunt, magis cavere debemus*; and after a learned discourse, he tells of some in the Catholick Church had happened in the time of St Ambrose at Milan, upon which he gives this grave censure, *Quæcunque talia in catholica sunt, ideo sunt approbanda, quia in catholica sunt; non ideo ipsa manifestatur catholica, quia hæc in ea sunt. Ipse Dominus Jesus cum surrexisset à mortuis, & discipulorum oculis videndum manibusque tangendum corpus suum offerret, ne quid tam fallaciae se pati arbitrarentur, magis eos testimonii Legis & Prophetarum & Psalmorum confirmandos esse judicavit, ostendens ea de se impleta, quæ fuerant tanto ante predicta, &c. and a little after, Hoc in Lege & Prophetis & Psalmis testatus est, hoc ejus ore commendatum tenemus, Hæc sunt cause nostræ documenta, hæc fundamenta, hæc firmamenta.*

25. To apply this to our case; the Church Catholick hath ever held a true fruition of the true Body of Christ in the Eucharist, and not of a signe, figure, or remembrance onely, but as the French confession, ^u que par la vertue secrete & incomprehensible de son Esprit, il nous nourrit & vivifie de la substance de son corps & de son sang, &c. and therefore we can agree to these verses:

^u Vide Chamer. de Sacramenti lib. 10. cap. 1. 2.

*Christ was the Word that spake it,
He took the Bread and brake it :
And as that Word did make it,
So I believe and take it.*

Here is then a Catholick Sermon, commanded to be read in the Church many years before the word *Transubstantiation* was heard, as the doctrine of it, teaching me this participation with *Christ*, however true, yet is not fleshy, but spirituall: if therefore this miracle were not to convince those held the communicating of *Christ* in the Sacrament, to have been no other then fantasticall, and the bread to have been, and conveyed no other to us then bare bread, must not I, according to St *Augustine*, avoid it as the fancies of lying men, or the operation of deceiving spirits? &c. And this as it may serve in generall for all miracles, so in particular for that of late divulged, of a poor mans legg cut off in *Spain* and buried, yet four years after restored: which if it be not some imposture, as the golden tooth in *Silesia*, or of *Arnald Tilly* (taken in *Francis* the 2^{ds} time not onely by others, but by the very wife of *Martin Guerre*, for her husband, and which held the Parliament of *Tholous* so much perplexed to resolve) we must not (according to this holy mans doctrine) believe for that or any of the like nature, farther then is proved by the Law and the Prophets, &c. Yet there is one thing in my opinion very considerable; what the Apostles did, were such, and in those places, no man could deny them: but these the Church of *Rome* holds out for confirmation of their religion, are either in corners, as *Garnets Face* in the Eare, with so dark proofs, as when they are looked into, *res tota cum contemptu dismissa est*; or else done in *Italy*, or *Spain*, where the Inquisition will suffer none but themselves to examine the fact: whereas if they followed th' Apostles example, they should be in *England* or *Germany*, that the Protestants might say, indeed a notable miracle hath been done by

by our Lady, is manifest to all, and we cannot deny it.
Act*s* iiiij. 16.

^a I.R. bis spe-
cules to Sr
Humfrey
Lynde, p.
155. §.4.

y p. 143. cap.
2. §.10.

¶ N.25.

∴ Index cer-
torum auto-
rum. Romæ.

a Tom. 2.
p. 450.

b p. 462.

26. ^x Another will have that homily, at least what he takes on him to confute, to contain no other then Catholick doctrine; and then falls upon the Archbishop of Armach, whom he conceives to have ill translated it out of the Latin, in which language there is not now found any ancient copy of it; ^y insisting, that though it were printed at London 1623. it was not to be heard of when he writ, which was about 1631. insinuating as if more might be said, if he could see the author himself. For the first of these, it must be said to contain Catholick Doctrine on the grounds ^z before; but if it be that the Church of Rome admits for such, I am glad to understand that from him. For the Primat of Ireland's translating the Latin to the disadvantage of the Romish, I shall give no answer, but that his English are indeed some parts of that sermon, but the Latin pieces of Bertram so agreeing with them, as they were undoubtedly taken out of him, (by which he gives a far elder testimony to that author then Oecolampadius) who was, no question a Catholick Doctor; but being so why is he prohibited ∴ by the Roman Index? why if at all permitted, must it be *exco-
gitato commento*? For the other, that it could not be had in London only eight years after it was printed, I can say nothing, but some men will not hear that they mislike: for that Homily, of which (if he say any thing) he speaks, first set out by John Day, with the subscription of 15 Bishops attesting the truth of the Copy, after 1623 reprinted by Henry Seal, always in the book of *Act*s* and monu-
ments &c.*^a in the life of Hen. the 8, and of late by Mr. Whelock put into Latin, and taken without any intervening transcription from the original Saxon, (that he might not vary in a tittle) was with his translation of it printed at Cambridge 1644. ^b amongst divers other excellent notes of that learned man upon Beda, that such as under-

understand not the language, may in that point see the doctrine of our forefathers.

27. A third ^c Doctor, who cannot deny but it makes directly against Transubstantiation, gives an answer I could not have expected, yet in my opinion more ingenuous; *That it is unreasonable to produce the forcelesse authority of these Saxon Homilies, which have no warrant of truth from any other but from our selves;* and the margin, *These Homilies were never heard of, but now of late amongst Protestants, onely framed and printed by themselves, without the warrant of any one indifferent witness.* This is, I say, what I could not have looked for. Can any man imagine two Archbishops, thirteen Bishops, besides divers other personages of honour and credit, could have been induced to subscribe so palpable a lye? as it must be, if this and the other passages, by them there testified to be found in the ancient monuments of this Church, were lately framed. But the old books that yet ^d remain, writ above five hundred yeares since, do enough vindicate the Protestants, in that which I dare say no one of them who alledge it do in their hearts believe, not to have been extant in them, as the Archbishop first sent them to the Pres.

^c Malon his
Reply to the
Archbishop
of Armagh, p.
320.

^d In bibliotheca
publica
Cant.

28. Of the little credit the Councell of Lateran in this point gained here, I have ^e touched before: neither did Peckham's constitution, *sub panis specie simul dari corpus &c.* speak home, nor was the thing ever absolutely determined with us till 1382: so that the opinion of Transubstantiation, that brought so many to the stake, had not with us 140 yeares prescription before Martin Luther began; for in that year Wickliff having propounded, ^f *quod substantia panis materialis aut inveni manet post consecrationem &c.* the Archbishop taking it into ^g consideration, did not think fit to condemn the *Tenei*, without farther advice with the University of Oxford, ^h where libratis singulis, every saying weighed, (and in especiall,

^e Chap. 7. n. 37.

^f In fasciculo
xiiij. aniorum
Ms. per
Thom. Wal-
dens. & Hen.
Knighton,
qui tunc vixit
scripsisse, col.
2648, 8. &
2654, 44.
^g Knight.
col. 2649, 31.
^h col. 2650,
49.

i Col. 2654.

as it seems, those ⁱ concerned the Eucharist) he did condemn some as hereticall, others as onely erroneous, and farther, *singulos defensores eorum imposterum sententia excommunicationis innotatos fore*, and gave command, ^k ne quis de cetero cuiuscunq[ue] status &c. —

k 2652, 67.

heresies seu errores predictos vel eorum aliquem teneat, doceat, predicet seu defendat. The ^l Chancellor likewise of the Academy repeating *VVickliff's* opinions touching the holy communion, shews they had been diligently discuss'd by Doctors in Divinity, and professors in the Canon Law, ac tandem finaliter est compertum atque judicio omnium declaratum, ipsas esse erroneas, fidei orthodoxe contrarias, & determinationibus Ecclesiae repugnantes: and then after all this search, delivers the doctrine of Transubstantiation as the conclusion agreed to be held, *Quod per verba sacramentalia à sacerdote prolatâ, panis & vinum in altari in verum corpus Christi & sanguinem transubstantiantur, seu substancialiter convertuntur sic, quod post consecrationem non remanent in illo venerabili sacramento panis materialis & vinum secundum suas substancias, sed secundum species earundem.*

m Vide Bellar.

de Eucharistia lib. 4. cap. 24. And this I take to have been the first plenary determination of the Church of England in the case, which yet how well it will be liked by such as hold the manner of conversion to be by a ^m succession of Christ's body to the substance of the bread, I leave others to dispute. But certainly the

g. ult.

n Noluit

Arch. plenarie

procedere.

o Imposterum,

de cetero tene-

at.

p Tandem fi-

naliter.

q A sparing

discourse pag.

13. writ by

a secular

Priest against

t' e Iesuites

Anno 1601.

∴ In Confess.

contra Wick-

liff. in bibliotheca

Archiepisc. Armach.

Mss.

adventuring to proceed in it alone, nor by his own councell, by o his extending what he did onely to the future, both for punishment and *Tenet*, and after p long enquiry concluding the truth of it, enough proves it not to have been in former times fully resolved on in this Church; so that we may say of our Auncestors, as q the Iesuites here about some 60 yeares since did of the Fathers, *rem Transubstantiationis ne attigerunt.* And it may not here unfitly have a place that ∴ John

Tifflington

Tifflington a Franciscan, whom *Pitseus* (from *Baleus*, not *Leland*, as he would have us think) affirms to have been an assistant in this dispute at Oxford 1382, or as some 1381, cannot deny the truth of the assertion, *quod panis & vinum remanent post consecrationem in naturis suis, adhuc servatur Laicis, & antiquitus servabatur*. And here it is not unworthy the remembiring, that by the law of the 6 Articles 31. Hen. 8. cap. 14. (containing in effect the body of Popery) no man was to dye as an Heretick but he who denied this Tenet; all others onely as felons, or men endangering the peace of the Kingdome, by teaching contrary to what was publickly received. By which it likewise appears, in fixing th' imputation of Heresy, the *English* looked on their home Determinations, not those of any forreign Church.

29. But I do not take upon me to dispute matters controversiall, which I leave as the proper subject to Divines; it shall suffice onely to remember, the Church of *England* having with this great deliberation reformed it self in a lawfull Synod, with a care as much as was possible of reducing all things to the pattern of the first and best times, was interpreted (by such as would have it so) to depart from the Church Catholick; though for the manner, they did nothing but warranted by the continual practice of their predecessors, and in the things amended had antiquity to justify their actions: and therefore th' Archbishop of *Canterbury*, in a provinciall Synod begun in S. Pauls the 3 of April 1571, and all other Bishops of the same Province, gave especially in charge to all preachers, to ¹ chiefly take heed, that they teach nothing in their preaching, which they would have the people religioufly to observe and believe, but that which is agreeable to the doctrine of the old Testament and the new, and that which the Catholick Fathers and ancient Bishops have gathered out of that doctrine. So that

¹ The book of
Canons of the
same Synod
printed by
John Day
1571.

nothing is farther off truth, then to say, such as reformed this Church made a New religion; they having retained only that which is truly old and Catholick, as Articles of their faith.

30. Thus was Religion reformed, and thus by the Queen establisht in *England*, without either motion, or seeking any new way not practised by our Ancestors, but using the same courses had been formerly traced out unto them, for stopping profaneness and impiety, whenever they peeped in the Church. And certainly, to my understanding, there can be none that will with indifference look upon those times, but he must (however he mislike the thing done) approve the manner of doing it. Yet the favorers of *Rome* ceased not to proclaim all had thus past to have been hereticall (without instancing any particular, as to say such a carriage was after the maner of Hereticks, ever condemned by the Catholick Church, and by orthodox writers in former times, or such a Tenant in your confession was held heresy from this place of Scripture anciently, by such holy Fathers met in generall Councell) and to raise stirs and commotions in the Commonwealth, ¹ to excommunicate the Queen as *flagitiorum serva*, free her subjects of their allegiance, to give out we had a *Parliament-religion, Parliament-Gospell, Parliament-Faith*, and this before ever the 39 Articles, one main pillar of the *English reformation*, were confirmed by Parliament.

¹ Bulla Pii
vii March
28. 1569.
² Harding his
confutation of
the *Apol.*
part 6.

31. Upon the whole, it is so absolutely false that the Church of *England* made a departure from the Church, which is the ground and pillar of truth, as I am perswaded it is impossible to prove she did make the separation from the *Roman* it self; but that having declared in a lawfull Synod certain opinions, held by some in her communion, to be no articles of faith, and according to the precedent of former times, and the power God and nature had placed in her self, redressed particular abuses crept into,

into her, the Pope and his adherents, without ever examining what was the right of the Kingdom in such like cases, that had from all antiquity done the same, would needs interpret this a departing from the Church, because he resolved to maintain as articles of faith, & thrust on others as such, some ambiguous disputable questions the *English* did not think fit to admit into that number. To make a departure from Christ's Church is certainly a very hainous offence, she never commanding ought but what is conformable to his will, nor* requiring her children to believe any thing as matter of faith, but what is immediately contained in the word of God, or by evident consequence drawn from it: and as she excludes no Christians from being her children, who by their own demerits deserve not to be out of the divine favour; so in opposing those who endeavour to procure some tenets to be admitted for hers, which cannot be deduced from that ground, we do not depart from her, but gainsay humane errors, and conceipts, which they would infer to be her commands who acknowledges them not. But as St. *Augustine* in a dispute with a Donatist, ^u *utrum schismatici nos simus an vos, non ego, nec tu, sed Christus interrogetur, ut judicet Ecclesiam suam:* so may I, whether we are the schismatics or the Church of *Rome*, Christ himself be the Judge. But whether divided from the other, being matter of fact, let the histories of former times, the extraordinary proceedings of the See of *Rome* of late against the Queen and this Commonwealth be compared, and I am confident the judgment may be referr'd to any indifferent person (though of that belief) who made the separation, and whether this Kingdom on so high provocations, did any thing would not have been parallelld by former times, had they met with the like attempts.

32. Neither can the Crown in this reformation be any way said to have enterprised on the papall primacy;

C c 3. (which .

* Bellarm. de
justif. lib. 3.
cap. 8. §. pri-
ma ratio. &
ibid. lib. 1. cap.
10. §. prima
ratio.

^u *Contra lite-*
ras Teitiani
lib. 2. cap. 8. 5.
tom. 7.

which (for ought I know) it might have acknowledged so far as is exprest or deduced from holy Scripture , or laid down in the ancient sacred Councells , or the constant writings of the orthodox primitive Fathers, and yet done what it did ;) but to have exercised that auctority alwayes resided in it , for conserving the people under it in unity and peace , without being destroyed by the Canons and constitutions of others ; not suffering a forraign power ruine them to whom it owed protection. In which it did not trench upon the rights of any , but conserved its own ; imitating therein the Imperiall edicts of severall Princes , and of those were in possession of this very diadem , conformable to their Coronation oath.

33. And from hence may be answered that which *Rome* brings as her Achilles, touching the succession and visibility of the Protestants Church and doctrine in all ages since Christ : for if theirs have been , it is impossible to say the others have not; the former adding onely more articles for a Christian to believe, which the latter will not embrace as needfull: so that if theirs (as they so much glory) have had the continuance from the Apostles , these needs must , which onely denies some part of that they hold. *a Protestants (says Stapleton) have many things lesse then Papists, they have taken away many things which Papists had, they have added nothing.* And here to my understanding the *Romanists* require of us what lies on their part to prove ; for we denying in the succession of Bishops from *Cranmer, Wareham*, even to *Augustine*, and so of the *Britons* , ever any one to have held the points we differ in to have been points of faith , in that degree of necessity they are now required , and for proof cite not onely the *Apostles, Nicen, Athanasian Creeds*, but even that of *Peckham*, which we find so to differ from the late one set out by *Pius 4^{tas}*, as we cannot but say it is unjust in them to preesse us to a profession in religion farther

*a Fortress of
faith, at the
end of Bedas
Hist. fol. 47. b.*

farther then our ancestors were; they on the contrary affirming all those holy Bishops preceding , not onely believed them as these now do , but did require them of others with the like necessity they now are; ought certainly to prove what they thus boldly affirm , which when they have done, truly for my part I shall think fit to yield: but till they do it, let them cease from proclaiming us hereticks, who hold no other then the ancient faith at first deliver'd unto us.

But this as a point rather dogmaticall for Divines, then historicall, the subject I undertook, I shall not here farther wade into.

F I N I S.

Errata.

correct.

P.	I.	lin. I.	more than	read	
	10		Christian		allmost Christians
-5	15		genenerale		generale
7	18		they addresse		they did addresse
9	1		know		knew
Cap. 3.	7.		Preceptor		precentor
	47	1	prius de fidelitate &		prius Romano Ponifific de fidelitate &
	52	4	find at all		find it at all
	67	10	suffer for		suffer death for
	79	13	Episcopus & clerus		Episcopi & clerus
81.	in mar-	gine ad lit. f.	Cap. 23.		cap. 3.
141	2		whethe		whither
151	3		Glaſſe		Glosse
157	4		Albigenses		Albigensis
	31		qui el		que il.
	39		Aſſent, de lour.		auf eratur comma
173	2		of Pope		of the Pope



